

# Report On The Investigation Into The 2018 Reorganization And Hiring Practices At The New Jersey Schools Development Authority

Submitted to the New Jersey Office of the Attorney General  
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# INVESTIGATION REPORT

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# **INVESTIGATION REPORT**

## **INTRODUCTION**

On or about November 26, 2018, the Office of Governor received an anonymous verbal complaint from an employee of the New Jersey Schools Development Authority (SDA or the Authority). The SDA is the State agency responsible for fully funding and managing the new construction, modernization and renovation of school facilities projects in thirty-one school districts known as the SDA Districts (formerly Abbott Districts). This anonymous verbal complaint was ultimately put in writing and forwarded to the Attorney General's Office on December 5, 2018. The anonymous complaint raised concerns regarding potentially illegal, unethical, and improper hiring practices by newly installed leadership at the SDA which had allegedly been occurring since early August 2018.

More specifically, the anonymous complaint outlined that the SDA's historical hiring practices involved a rigorous process that included formal job descriptions; a salary structure based on job evaluations; job postings (both internal and external); HR review of applications; HR shortlisting of applicants; interviews by a 3-member selection committee; successful candidate interviews by the department VP and the CEO; and background checks prior to hiring. The complaint went on to allege that since August 2018, close to thirty-five (35) new employees had joined the SDA without going through any formal hiring process and there was credible evidence that a majority of the new hires were family members, friends and associates of Lizette Delgado Polanco, the new CEO, and other newly hired members of the SDA Executive Team. The complaint also alleged that certain of the new hires were individuals who were placed in positions for which they lacked the relevant qualifications and/or experience and that salaries had been arbitrarily established.

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The Office of the Attorney General engaged Domenick Carmagnola, Esq. and his firm, Carmagnola & Ritardi, LLC to conduct an independent review and investigation of the issues raised in the anonymous complaint. The engagement was formalized on January 10, 2019 and originally involved the investigation of the anonymous complaint and alleged violations of the New Jersey Conscientious Employee Protection Act at the SDA. As that investigation progressed, additional complaints and issues were added to its scope as will be identified herein.

In that regard,

Confidential Material

Ultimately, given the overlap of issues raised in the anonymous complaint and those raised Confidential Material, the engagement was expanded to include an investigation of Confidential Material

The factual allegations in the anonymous complaint and Confidential Material all stem from the time period after Lizette Delgado Polanco was appointed Chief Executive Officer of the SDA on August 1, 2018. The focus of the complaints and claims surround the termination of employees at the SDA which occurred in September of 2018 and the hiring of replacements and new employees at the agency. Generally speaking, the anonymous complaint alleged that the new administration was engaging in unethical and improper hiring practices, retaliation and breaches of policies, procedures and conflict of interest rules.

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Confidential Material

Confidential Material alleges that during Confidential employment, Confidential made internal complaints to Confidential superior including, but not limited to, the following<sup>1</sup>:

- that Confidential questioned the ethics of Patricia Arcila Cabrera having a supervisory role over the Human Resources Department (as Deputy Chief of Staff) given that Ms. Cabrera's daughter-in-law, Jenna Arcila, had been hired as a Project Coordinator in the Human Resources Department;
- that Lizette Delgado Polanco constantly reminded Confidential that Confidential was not the first choice to be Confidential and that Ms. Delgado Polanco had another person in mind for the position;
- that Confidential questioned and complained of unethical conduct including:
  - hiring individuals without interviews or input from department managers or Vice Presidents;
  - hiring individuals unqualified for positions;
  - having resumes hand-delivered to Confidential by Ms. Delgado Polanco for direct hire;
  - nepotism in the hiring of friends and relatives especially in management roles;

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<sup>1</sup> It is noted that the allegations and claims asserted by

Confidential Material

For this investigation, we wrote to Confidential Material and later Confidential counsel and requested the opportunity to interview and obtain additional information from Confidential regarding Confidential complaints, however, Confidential ultimately declined to be interviewed.



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- having to provide large salaries to specific employees;
  - new positions being created.
- that <sup>Confident</sup> was being isolated from existing employees;
- that <sup>Confident</sup> was prevented from the timely filing of quarterly salary information under Executive Order 8 and specifically having to delay the filing for weeks because the new salary of Albert Alvarez effective August 1, 2018 would be made public; and
- that <sup>Confident</sup> was being pushed out as **Confidential Material** and **Confidential Material**  
who is a close friend of Patricia Arcila  
Cabrera and an acquaintance of Ms. Delgado Polanco

As indicated above, many of the issues surrounding the hiring of new employees after Ms. Delgado Polanco started as CEO, alleged unethical conduct and the failure to comply with hiring practices and procedures were raised in both the anonymous complaint made to the Attorney General's office by an employee of the SDA and **Confidential Material** .

While our investigation was ongoing, three other complaints were made to the Governor's Office or the Office of Attorney General by employees of the SDA which involved issues related to our investigation. More specifically, two complaints were filed relating to comments made by Lizette Delgado Polanco during her report to the Board at the March 6, 2019 SDA Board meeting. One of the complaints was made verbally by Al Barnes, Chief Counsel at the SDA and the other was a written complaint made by three Vice Presidents and Mr. Barnes. On April 22, 2019, a separate complaint was filed by Jane Kelly which repeated many of the prior allegations which had been made but added that the work environment had become toxic and hostile.

In addition to the above, during our investigation various information and documents relating to the SDA and the issues outlined above were provided to reporters and news sources

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which resulted in a significant number of news articles being published. The articles brought an incredible amount of negative attention to the authority and, in some instances, conveyed inaccurate information. This is worthy of note as many of the witnesses we interviewed were aware of the articles, had reviewed them and, in some instances, the personal information they were aware of came directly from them. As our investigation neared its conclusion, there was also testimony provided to the Assembly Budget Committee by Ms. Delgado Polanco and other SDA employees and an interview provided to one of the news reporters who had written many of the articles by Jane Kelly, the Vice President – Corporate Governance and Legal Affairs during which she revealed certain information which had previously been maintained as confidential.

Each of these issues was investigated and will be addressed in the body of this report.

## **I. COUNSEL’S INVESTIGATION**

### **A. Preliminary Note on Timeline of Investigation**

This office was retained to investigate the initial underlying complaints on January 10, 2019. Our investigation included the interview of forty-seven (47) witnesses. (Attached as Exhibit “A” is a list of each of the witnesses interviewed and the date of her or his interview.) Our investigation also involved the review of thousands of pages of documents including the personnel file of certain employees who were terminated in September of 2018, the personnel file of each employee who was hired after Lizette Delgado Polanco became CEO and prior to her resignation, SDA policies and procedures, complaints, e-mails, Board documents, tables of organization, the SDA website, press releases, newspaper articles, and the like. (Attached as Exhibit “B” is a list of certain relevant documents reviewed. Due to the volume of documents reviewed, a detailed list containing the name of each document reviewed was not created.)

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As our investigation proceeded, it was impacted and expanded by the additional complaints which had been made, witness availability, articles being published online and in newspapers and organizational changes at the SDA.

## B. Complaints Investigated

1. December 5, 2018 “Anonymous Complaint” Submitted to the Office of the Governor’s Chief Ethics Officer (Exhibit “C”)
2. Confidential Material  
  
(Exhibit “D”)
3. Members of the Executive Team and Chief Counsel’s March 6, 2019 Letter to the Chairman of the Board and the Office of the Governor (Exhibit “E”)
4. Chief Counsel Albert Barnes’s March 6, 2019 Telephone Call to the Office of the Attorney General (Exhibit “F”)
5. Vice President Jane Kelly’s April 22, 2019 Correspondence to the Office of the Governor (Exhibit “G”)

## C. Witness Interviews

1. Statements to Witnesses

All individuals interviewed were informed that the investigators regarded this investigation as confidential and that each individual was asked to maintain the confidentiality of the investigative process while it was being conducted. In addition, each witness was asked to refrain from discussing the matter with others. We explained how maintaining confidentiality helps ensure an accurate fact-finding investigation, acknowledged the bevy of news reports on subjects relevant to the investigation, and requested that individuals specify their source of knowledge if it was not personal (i.e. if they only know something because they read it in the newspaper).

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## 2. List of Interviews

Forty-seven (47) individuals were interviewed, some multiple times, for a total of fifty-four (54) interviews over the course of approximately four months. The following individuals were interviewed in connection with this investigation:

Andrew Yosha	Frank DiBartolo
Lizette Delgado Polanco	Jenna Arcila
Miguelina Diaz	Elizabeth LeVaca
Jane Kelly	Joel Guzman
Don Guarriello	Cory LeDet
Manny DaSilva	Hashim Shomari (William Lee)
Tom Schrum	Denise Fernandes
Roy Garcia	Vicente Gonzalez Roman (Alex)
Shilpi Kumar	Paul Bilinski
Stephanie Brown	Kenny Richardson
Karen Clark	Laury-Ann Diaz
Karon Simmonds	David Rivas
Patricia Arcila Cabrera	Ellen Leonard
Pam Luster	Scarlett Rajski
Al Barnes	Renita Darden
Garrison Keck	Charles Barksdale
Rafael Mata	Stella P. Cabrera
Shayne Stuart	Tishea Davis
Tony Gilfillan	Stephanie Green
Tony Bianchini	Ana Alvarez
Louise Sanna	Votajsia Bethea
Manny Castillo	Kristen MacLean
Nicole Vinci	Kristen MacLean
Riya Arora	Marcia Longmore

In addition, efforts were made to interview

Confidential Material

through counsel, declined to be interviewed as part of this investigation. Confidential Material was interviewed on May 3, 2019 as part of a separate investigation relating to allegations of file-tampering at the SDA which was performed by other investigators. Confidential interview was tape recorded. Portions of that tape recording were relied upon for this report.

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## **II. TERMINATION OF EMPLOYEES IN AUGUST AND SEPTEMBER 2018**

### **A. The “Dead Wood List”**

Sometime in July or August 2018, Human Resources Director Maribell Osnayo-Lytle compiled a list of employees who had a history of either performance or disciplinary issues. The list came to be known as the “Dead Wood List” colloquially. Neither the SDA Executive Team nor Department managers were asked for input regarding this list as it was compiled. It is not known if anyone asked Ms. Osnayo-Lytle to prepare this list or if she took the initiative to create it herself. Many interviewees, however, expressed that it was not unusual or unexpected that the new administration would bring change and a critical look at the existing staff. Several witnesses indicated that previous changes in administration had resulted in similar reductions in force. This list was later used as a starting point regarding discussions and decisions regarding the terminations which occurred in September of 2018.

### **B. Executive Team Meetings**

While executives were not consulted as the list was prepared, there was a series of meetings in August and September of 2018 to discuss the list and the personnel decisions to be made. Most interviewees reported that Ms. Osnayo-Lytle led these meetings. After the list was presented to the executive team, those executives had the opportunity to consult with their Department heads to review the proposed personnel actions and to ascertain their opinions and input. Several members of the executive team reported receiving feedback which was conveyed at these meetings and which led to changes in the actions that were being discussed. As a result, revisions were made to the list. Some names were removed from the termination list, for example, and added to a list of employees to be given Performance Improvement Plans (PIPs).

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## C. Allegations of Impropriety in Terminations

There has been much discussion in the press regarding the impropriety of the new administration terminating long-term SDA employees. However, virtually all of the internal interviewees who were asked agreed that the individuals who were terminated were individuals who had either performance issues, behavioral concerns or other issues that led to their termination. Multiple witnesses described the previous CEO's "no-fire policy," and believed that many of the terminations that occurred in September of 2018 were "a long time coming."

Before proceeding with the terminations, the SDA sought the advice of counsel for any questions or concerns related to them as they were cognizant to ensure there were no issues of improper motivation (i.e. unlawful discrimination).

As it relates to the new hires, contrary to what has been reported in the press and claimed by former employees, most of the employees who were terminated were not replaced. Rather, most of the new hires were hired for new or different positions.

Fifteen employees were terminated on September 20, 2018, as follows:

<b>Name</b>	<b>Position</b>	<b>Department</b>	<b>Position Status</b>
Gabriella Alese	Staff Coordinator	Special Projects	Replaced with new hire Charles Barksdale. Department is now Records Management under VP Pam Luster
Rose Ananthanayagam	Administrative Specialist	Program Assessment & Development	Eliminated in Reorganization
Keith Bannach	Assistant Counsel	Chief Counsel	Vacant
David Barie	Cost Engineer	CMD	Filled by transfer from another Department
David Benfer	Program Officer	Construction Operations	Eliminated in Reorganization
Darcy Hatala	Program Assistant	Construction Operations	Eliminated in Reorganization
Robert McNamara	Assistant Counsel	Chief Counsel	Vacant

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Steve Miller	Program Officer	Construction Operations	Eliminated in Reorganization
Peter Orilia	Estimating Coordinator	CMD	Vacant
Anna Pagan	Real Estate Assistant	Real Estate Services	Department re-named Property Management. Position filled by existing employee from Department who was demoted from Analyst. New hire filled Analyst position.
Caryn Ryan	Administrative Assistant	Communications	Eliminated in Reorganization.
Sameerkumar Shah	Acting Director	CMD	Filled by New Hire Frank DiBartolo
Duane Shipley	Facilities Assistant	Facilities	Filled by New Hires – Total number of Facilities Assistants increased from 3 to 5.
Adele Bonar	Vendor Analyst	Risk Management and Vendor Services	Filled by transfer of New Hire Riya Arora from Grants
Renita Darden	Information Systems Assistant	Information Systems	Position eliminated in reorganization. Employee re-hired in a different position.

### III. REORGANIZATION

#### A. Restructuring of Departments

With respect to the termination of employees which occurred in September of 2018, as will be detailed in other areas of this report, it is worth noting that Ms. Delgado Polanco was not the driving force behind them and did not demand them as part of a concerted effort to replace terminated employees with friends or colleagues. In fact, most individuals familiar with the performance of the employees who were terminated, including the various complainants, indicated that the terminations were appropriate either for performance reasons or redundancies.

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When Ms. Delgado Polanco began her tenure as CEO, she had certain initiatives which were priorities to her. Among them was reauthorization (re-funding) for the SDA, increasing the public awareness of the organization, diversifying its workforce, diversifying its vendor list, insuring that the organization complied with previously outlined diversity initiatives and increasing community involvement in those cities, towns and neighborhoods where construction projects were ongoing or planned. While Ms. Delgado Polanco sought to assess how the SDA could most effectively fulfill its mission of planning and constructing high-quality schools on time and on budget after taking over as CEO as well as pursue her initiatives, she quickly began a reorganization of the SDA which involved a review of, and revision to, the Organizational Chart, a reconfiguring of departments and change in certain focus areas including a significant focus on reauthorization<sup>2</sup>.

What was unclear throughout the investigative process was why there was such an extensive reorganization of the organization when the SDA appeared to be fulfilling its mission of building schools on time and within budget? As related to the existing organizational structure and employees at the SDA when she started, Ms. Delgado Polanco indicated that she came to the SDA with an open mind and was prepared to give everyone a chance. She said that before starting as CEO, she spoke to the prior CEO who informed her that she was walking into a “hornet’s nest” and that the employees at the SDA were “very entrenched.” She said that once she did start, it was clear that the information provided to her was accurate and that employees believed they were entitled to their jobs, regardless of performance or need and had become entrenched and set in their ways.

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<sup>2</sup> Reauthorization refers to the process which was engaged in to have the SDA’s budget replenished before the organization ran out of money. As will be seen, this process became one of the central focuses of Ms. Delgado Polanco’s tenure as CEO.



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Ms. Delgado Polanco indicated that after she started as CEO, she sat down with Andrew Yosha and reviewed the organizational chart in place at the time. According to her, the structure of the organization did not make sense as Al Alvarez, Chief of Staff, was overseeing only one department (he was actually overseeing two – Program Assessment and Development and Special Projects) and Jane Kelly, VP of Corporate Governance and Operations, was overseeing six departments (Human Resources / Legal / Information Systems / Facilities / Ethics / Communications). Therefore, she determined that changes needed to be made.

Ms. Delgado Polanco indicated that all of the upper management employees and senior staff were involved in the organizational review and that Ms. Osnayo-Lytle was involved in every facet of the review. She emphasized that she held multiple meetings with Ms. Osnayo-Lytle and she was involved in all of those meetings. While it was clear that Ms. Osnayo-Lytle and senior staff were involved in meetings to discuss the terminations which occurred, there is significant evidence to indicate that senior staff and Ms. Osnayo-Lytle were not as involved in the reorganization discussions and decisions as Ms. Delgado Polanco claimed. In fact, the contrary appears to be true. Our review of documents and information obtained led to the conclusion that, other than the individuals identified and specific instances referenced herein, VPs and senior staff were not involved in the hiring of new employees during Lizette Delgado Polanco's tenure as CEO.

The reorganization discussions and decisions appeared to have been limited to a small group of individuals who were part of Ms. Delgado Polanco's inner circle. There was no official reorganization announced to the organization. There was no committee formed to review the organizational makeup and make recommendations. There was no outside consultant hired to provide a review and analysis of the organizational makeup. Vice Presidents and Department Directors were not asked to submit an analysis of their department or for recommended changes.

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Simply put, there was no plan presented or implemented which related to the reorganization which took place.

Information regarding the reorganization was so limited that, despite significant changes to the organizational structure, the creation of new departments, and the hiring and firing of multiple employees, a revised organizational chart was never issued during Ms. Delgado Polanco's term as CEO. No explanation for this was ever provided other than it was not finalized and required Board approval before it could be issued. That said, the actual changes to the organizational structure, terminations and hiring of new employees were all done without Board approval. The failure to issue an updated organizational chart added to the questions and concerns that employees had about the significant changes that were being made and led to uncertainty about how the changes were being handled and whether additional changes were going to be made.

Regarding the reorganization, Ms. Delgado Polanco acknowledged that her focus was on the reauthorization and it was the primary reason she created the External Affairs Department. She said she had her own ideas regarding that department, and she was directly involved in staffing it. She indicated that she was involved in the hiring because she knew what she was looking for and there was no time for on the job training. She also acknowledged that the new Director of Communications was her communications director from her prior employment with the Carpenter's union. She indicated that it was important for her to change the role of communications from policy planning and OPRA to engaging the public, using social media and essentially creating a media campaign that would raise the public exposure of the SDA and assist with the reauthorization process. These were significant changes with little review of whether the current employees and leadership could accomplish the stated objectives or input from supervisors and other employees who could provide insight and information to make those assessments.

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Certain other employees interviewed were critical of this approach. They noted that no prior CEO had made such significant changes so quickly. Most felt there was no critical need to fill the positions that were open or to create new departments or positions. There was no void in the organization that needed to be filled. They also expressed the opinion that the SDA did not need to market itself. While the SDA needed funding and reauthorization was understandably an important issue, there was no need to create a new department devoted to it when they could have simply hired outside consultants to assist them with it and allocate employees to the effort as needed. Ultimately, these employees believed that there might be justification to hire some people who were experienced in legislative affairs but not to overhaul the organization as part of a concerted effort and strategy to convince the Legislature to continue funding the SDA and its projects. They also noted that based on their recollection, the SDA had never hired as many new employees as quickly as occurred after Ms. Delgado Polanco became CEO.

While Ms. Delgado Polanco was the ultimate authority and decision-maker relating to the terminations, Ms. Osnayo-Lytle actively participated in most of the meetings held relating to them to address any personnel issues and to provide information she was aware of relating to the employees being discussed. Contrary to her allegations, Ms. Osnayo-Lytle herself drafted and provided Ms. Delgado Polanco with a list of SDA employees who she felt should be terminated, placed on performance improvement plans or placed on probation, based upon their respective work histories. Several witnesses confirmed that Ms. Osnayo-Lytle was directly involved in the termination discussions and participated and had input into the decisions which were made. The information obtained also leads to the conclusion that Ms. Osnayo-Lytle had been formulating this list for some period of time prior to Ms. Delgado Polanco taking over as CEO. The list came to be referred to as the “Dead Wood List.”

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When the discussions regarding terminations first began and Ms. Osnayo-Lytle presented her list, Ms. Delgado Polanco required every Vice President to review the proposed terminations with their supervisors and managers and pull their personnel files. Ms. Delgado Polanco indicated that she wanted the recommendations of her senior staff regarding the terminations which is what she said ultimately occurred and what she relied upon.

When the terminations occurred, they were carried out consistent with proper employment practices, with legal advice and with the involvement of supervisors and members of management who had been employed at the SDA prior to Ms. Delgado Polanco starting as CEO and were therefore familiar with the individuals, their capabilities and their performance history. Confidential

Confidential Material

Our review did not find that Ms. Delgado Polanco or employees that were hired after she become the CEO were more significantly involved in the decision-making relating to those terminations than any other members of the executive team. In fact, the person with perhaps the most involvement in the process was Ms. Osnayo-Lytle. This was confirmed by several witnesses including Ms. Delgado Polanco who indicated that Ms. Osnayo-Lytle did most of the talking in meetings where termination discussions occurred.

## **B. Reassigning Employees**

While this investigation concludes that there is insufficient evidence to support the widely reported rumor that employees were terminated for the purpose of bringing in new candidates, there *is* evidence to support that at least some employees were reassigned so a new employee could

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occupy a given title. There are at least two known instances where this occurred, and an allegation that an employee was reassigned and demoted to accommodate a new employee. The Deputy Director of Grants was reassigned when Kenia Nunez Acuna was hired. However, she reportedly had applied for a position in the Department to which she was assigned, and was happy with the move. The Director of Communications became the Director of Policy when Tony Bianchini was named Ms. Delgado Polanco's Communications Director. While not happy about the change, this individual expressed an understanding that the CEO may choose her own Communications Director, and she stated she was happy to have another position.

In another instance, though, a Human Resources Generalist was demoted and moved out of the Department. Ms. Delgado Polanco insists that it was her Director, Ms. Osnayo-Lytle, who was responsible for this change. The investigation did not provide sufficient information to allow us to provide an answer to this question, but another employee was also subsequently moved out of Human Resources while new hires continued to be assigned there.

## **C. Creation of New Positions**

Beginning in August of 2018, the SDA began a major transformation which was primarily directed by Ms. Delgado Polanco. This transformation was described in an email from Al Alvarez, then Chief of Staff, to Ms. Osnayo-Lytle as a "massive reorganization." In that same email, Mr. Alvarez complimented Ms. Osnayo-Lytle on the great job she was doing to assist with it and in handling all of the moving pieces.

Ms. Osnayo-Lytle alleges that as part of this reorganization, she was tasked with terminating employees and hiring replacements and/or new employees. She calculated that there were thirty new hires prior to her termination. She alleged that speed was paramount in the process, resumes of candidates were hand-delivered to her and not submitted through the web

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portal, and individuals were hired without interviews. In other words, the hiring process and procedure as outlined by Policy 410 was not being followed. She also alleged that some individuals hired were friends and relatives of Ms. Delgado Polanco and Patricia Cabrera, new positions were created with large salaries and that most of the new hires were not qualified. Much, but not all, of what Ms. Osnayo-Lytle alleges in this regard was true.

While

Confidential Material

, we were nonetheless able to gather significant information relating to the terminations, hiring of new employees and the restructuring of the organization. The information obtained made it abundantly clear that the changes were being directed by Ms. Delgado Polanco, Patricia Arcila Cabrera, Al Alvarez or their designees and there was little significant input, if any, from human resources on the decisions to hire new employees, the positions they were placed in or the salaries they were paid.

Regarding the new hires, any employee we spoke with who had been at the SDA for any length of time described the scenario as being like nothing they had ever seen before. One employee who worked in HR and was involved in various aspects of the process including handling paperwork made the following comments and observations:

- When hiring new people, they did not follow the normal procedure – there were no job postings, no interviews and no job openings; simply put, it was not like anything that was ever done before.
- This was not typical.
- The hiring and practices had never been done before and it was excessive.
- The process was unethical and was breaking all the rules.

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- Employees who were there previously were asking each other questions about who was being hired and how they were being hired.

This same employee was asked at some point to assist Ms. Delgado Polanco and Al Alvarez in revising the Organizational Chart. While she had never done so before, she agreed to assist. No other employees were part of this process except Ms. Delgado Polanco and Mr. Alvarez - two individuals who had very limited experience at the SDA.

In describing the process of revising the Organizational Chart, this employee indicated that Ms. Delgado Polanco and Mr. Alvarez were moving people around and it was her job to make the changes for them on the chart. They were changing departments, moving people out, and bringing people in. They were talking about the open positions and how much money was available to give to people. She noted that they were speaking in Spanish the entire time which she said made her uncomfortable and made her feel like they did not want her to know what they were talking about. At some point, Ms. Delgado Polanco asked her if they were allowed to hire relatives and this employee explained what the rules were in that regard.

Documents reviewed during the investigative process confirmed that many of the decisions regarding the new hires were made by or through Ms. Delgado Polanco. Examples of this include the following:

- August 14, 2018 email from Al Alvarez forwarding Laury Ann Diaz's resume to Ms. Osnayo-Lytle and indicating that Ms. Diaz is someone "who Lizette wants to bring in as your deputy."
- August 29, 2018 email from Ms. Osnayo-Lytle to Al Alvarez requesting confirmation that Jenna Arcila is coming as an Admin in HR at a salary of \$45,000.

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- August 30, 2018 email from Al Alvarez to Ms. Osnayo-Lytle confirming that they “discussed Jenna earlier with Lizette and she’s coming in now at \$50K under you and your team.” Mr. Alvarez continued: “I can’t remember the title change you’re giving her but I know you have it written down somewhere.”
- September 7, 2018 email from Al Alvarez to Ms. Osnayo-Lytle forwarding the resumes of Laury-Ann Diaz and Kenia Nunez who he describes as “individuals interested in positions with the SDA.” Of note, as of September 7, Ms. Osnayo-Lytle had already been provided with a copy of Ms. Diaz’s resume and was told that Ms. Delgado Polanco wanted her hired and the copy of Ms. Nunez’s resume attached to the email had the following handwritten notes at the top of it: “DOH Oct 15th D.D. Grants”. This note reflected that Ms. Nunez had already been hired as, or offered the position of, the Deputy Director in the Grants department with a start date of October 15 which is ultimately what occurred.
- September 11, 2018 email from Al Alvarez to Ms. Osnayo-Lytle informing her that Laury Ann Diaz’s salary will be \$110K and that she will be placed into the position of Deputy Director of Government Relations. In that same email, Mr. Alvarez informs Ms. Osnayo-Lytle that he is providing her with an electronic resume for Myra Negron who he planned on speaking to that evening and who would have a starting salary of \$55,000.
- September 17, 2018 email from Al Alvarez to Ms. Osnayo-Lytle regarding a prospective employee, Nicole Vinci. Mr. Alvarez informs Ms. Osnayo-Lytle



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that he spoke to Don Guarriello “about Nicole onboarding soon as a deputy in Karon Simmond’s shop.” Mr. Alvarez indicates that Mr. Guarriello will tell Ms. Simmonds about the hire tomorrow but asks Ms. Osnayo-Lytle to send Nicole’s resume first.

These emails not only reflect that hiring decisions were being directed by Ms. Delgado Polanco outside the normal hiring process but that department directors were not being consulted about adding employees to their department including employees who were going to hold positions as second in command in their department.

## **D. Promotions and Salary Increases for Existing Employees**

Promotions, salary increases and transfers of existing employees were topics that generated extensive discussion among the witnesses interviewed. As part of the review of the organizational makeup of the SDA, raises and merit increases were provided to a significant number of employees at the Authority. These were either promotional increases, merit-based increases or equity increase (increases for people who were viewed as underpaid within their position or range). Regarding the increases, Ms. Delgado Polanco commented that she gave the VPs whatever they wanted. Most of the increases were recommended or requested by VPs or Directors.

As with other scenarios such as hiring new employees or adding or creating new positions, the impact on the budget was not of significant concern. Ultimately, the promotions, promotional increases, merit-based increases, equity increases and the new hires increased the salary budget by over two million dollars. This is not an insignificant amount of money for an organization that was running out of money, had been very budget conscious and whose renewed focus became reauthorization. Simply put, while it may have been time to consider increases for employees, there was not a documented justification for the substantial increase in the employee count and

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certainly not the appropriate amount of discussion with VPs and other senior staff as part of the process and prior to making decisions with such a significant impact on the organization.

It was noted that when Ms. Delgado Polanco arrived, she was asked by the VPs if increases were going to be given. Typically, increases were done in October. She responded that she would permit increases and asked the VPs to make recommendations. Consistently heard throughout the interviews was the fact that individuals (both existing employees and new hires) were promoted contrary to policies and procedures and without regard to qualifications, experience or merit. There was also extensive discussion relating to the transfers of employees which in some cases appeared to occur to create positions for new hires who did not have qualifications that related to actual open positions.

## **IV. HIRING PRACTICES AND PROCEDURES**

As indicated above, the Office of Attorney General received a verbal anonymous complaint from an employee of the SDA in November and December of 2018. This complaint was ultimately put in writing and forwarded to the Attorney General's Office on December 5, 2018. The anonymous complaint raised concerns regarding potentially illegal hiring practices by newly installed leadership at the SDA which it was alleged had been occurring since early August 2018. The complaint was made to the Attorney General's office because the individuals engaged in the alleged improper behavior were in the chain of command of the Complainant.

The anonymous complaint outlined the SDA's historical hiring practices and how they had been compromised or disregarded by the new administration. The Complainant indicated that in the past, the SDA's hiring procedures involved a rigorous process that included formal job descriptions; a salary structure based on job evaluations; job postings (both internal and external); a review of applications by the Human Resources Department (HR); HR creating a short-list of

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applicants; interviews by a 3-member selection committee; successful candidate interviews by area VP and CEO; and background checks being done prior to hiring. The complaint went on to note that since August 2018, close to thirty-five (35) new employees have joined the SDA without going through any formal hiring process. The complaint also claimed there was credible evidence that a majority of the new hires were family members, friends and associates of Ms. Delgado Polanco, the new CEO, and other newly hired members of the SDA Executive Team or management staff. The complaint also alleged that certain of the new hires were individuals who were placed in positions for which they lacked the relevant qualifications and/or experience and that salaries had been arbitrarily established.

## **A. Policies and Past Practice at SDA**

### **1. NJSDA Policy 410: Internal and External Hiring**

The SDA's Policies, Programs and Benefits Manual contains a detailed policy which sets forth the process by which vacant positions are generally filled. See, Policy 410, Internal and External Hiring. The policy's purpose states that most positions will be posted for consideration of internal employees. The individuals interviewed were generally familiar with the process. Individuals employed in human resource functions and supervisors, or employees involved in the hiring process were very familiar with the process.

#### ***a. Generally, the Policy Favors Internal Posting of Vacant Positions***

When a vacancy arises, the position is either posted internally, recruited externally, or both. Most witnesses agreed that posting of positions for internal candidates prior to considering external candidates was historically the process that was followed. The policy also indicates that certain positions may simultaneously be open to both internal and external recruiting. It also notes that,

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at times, the SDA may exclusively seek external candidates “to incorporate new ideas to the NJSDA.”

Under this policy, SDA employees are also generally not eligible for consideration for a vacant position unless the employee has been in his or her current position for one year. This requirement may be waived for “business needs.”

## ***b. The Policy Directs that Hiring Managers Coordinate the Hiring Process with Human Resources***

The hiring process requires the direct involvement of the Human Resources Department for virtually every aspect of it. When a manager wishes to fill a position, he or she completes an Employee Requisition Form for the CEO to approve. Then, the approved form is submitted to Human Resources. Human Resources, in turn, will post the position and collect resumes. Human Resources will further screen the resumes and forward pre-screened resumes of qualified candidates to the hiring manager. The hiring manager selects interviewees, and Human Resources coordinates the scheduling of interviews.

If it is decided that there is a need to bring in an external candidate, there are a number of specific options which can be utilized, however, all must take place under the direction of Human Resources. Available resources which may be utilized for an external candidate include: employee referrals, network contacts, college recruiting, career or job fairs, Department of Labor / One Stop Career Services, postings on the SDA website or the internet, magazine and newspaper advertisements, professional associations, professional contacts, and the like.

If there is no further interest in a candidate, Human Resources will send a letter to that effect. When an applicant has been selected for a position, Human Resources will discuss the appropriate salary offer with the hiring manager, obtain the appropriate approvals, extend the offer, agree on a starting date, and obtain a verbal acceptance before an offer letter is sent.

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## ***c. The Policy Provides for Multiple and Panel Interviews***

Hiring managers generally interview candidates as part of a three- or four-member panel. Following the interviews, the panel members and Human Resources will meet to review and discuss the applicants. The hiring manager or Human Resources may schedule second interviews with the hiring division, and the top candidate may be interviewed by executive management.

## ***d. Under the Policy, Employee Referrals Follow the Same Process***

With regard to employee referrals and networking contacts, Policy 410 states: “Candidates must apply on-line and can forward their resume to [resumes@njsda.gov](mailto:resumes@njsda.gov).” This is the same e-mail address provided for employee-applicants and for unsolicited resumes. The process described above regarding the screening, interviewing, processing, and selection of candidates applies to both internal and external candidates, including those referred by another employee.

## **2. Past Practice at the SDA Regarding the Hiring Process**

### ***a. Prior to Lizette Delgado Polanco’s Tenure as CEO, Policy 410 Was Generally Followed***

Witnesses interviewed, including members of the Executive Team, Human Resources employees, and Department Directors, agreed that prior to Lizette Delgado Polanco’s tenure as CEO began, Policy 410 was generally followed when job vacancies arose. Specifically, requisition forms were completed and included job descriptions. Requests to fill positions were reviewed among the Executive Team and included a review of the budget. When approved, Human Resources would post the position (internally, externally, or both, as appropriate), screen resumes, and coordinate interviews. Applicants were interviewed by panels, and the hiring manager remained involved in the process. The Executives overseeing the positions would be given the

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opportunity to interview the top candidates. Documents reviewed corroborate witness accounts regarding the general adherence to Policy 410.

## ***b. In Limited Circumstances, Employees Were Hired Without Following the Usual Process***

Witnesses interviewed who had observed previous changes in administration agreed that it was customary and expected that some people would be brought on to fill positions without following the usual process. However, witnesses reported that in the past, this was generally limited to only one or two people, and only to top-level and confidential positions. For example, it would not be unexpected for a new CEO to bring in her chosen Chief of Staff or a confidential aide or administrative assistant without posting the position and interviewing candidates.

## **B. Practices Engaged in During Lizette Delgado Polanco's Tenure as CEO**

### **1. Policy 410 (Internal and External Hiring) Was Generally Not Followed**

It was abundantly clear that during Lizette Delgado Polanco's tenure as CEO, Policy 410 and generally accepted hiring practices were not followed. These practices became widely known among the agency and caused dissension, hostility, resentment, concern over whether one's employment would continue and concern over whether promotional opportunities would be available in the future. It also resulted in scenarios where employees who anticipated being promoted to supervisory positions given their length of employment, background and prior performance, were being supervised by newly hired employees with no prior experience with the SDA.

Complaints that were made and confirmed through other interviews and documents reviewed included:

- Job descriptions and requisitions were largely not completed prior to hiring

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- Job vacancies were not posted internally or externally
- Screenings and interviews were largely not conducted prior to hiring
- Interviews which were done were largely limited to telephone interviews conducted by Human Resources – this was done to expedite the hiring process and to limit those individuals who would be involved the hiring process
- Executive managers were not always consulted prior to hiring decisions being made or changes to the structure of their department or divisions being made
- Supervisors were not always given input regarding new hires or changes to their department

Individuals who ultimately were hired during the time Ms. Delgado Polanco was the CEO may have been aware that the process being followed was not the typical one, however, no fault is attributed to them as part of a review of this process as they were simply proceeding as advised or directed. It appears that had those same individuals been directed to follow Policy 410 or submit to a process consistent with it, they would have done so.

Particularly troubling as relates to the hiring process is that Policy 410 was not followed even after the former Director of HR (Ms. Osnayo-Lytle) was terminated and Miguelina Diaz took over the Department. Ms. Diaz indicated that Policy 410 was not changed, she was generally familiar with it but had not necessarily followed it after she took over the HR Department.

## 2. Updated Organizational Charts Were Not Issued

It is unrefuted that significant changes occurred at the SDA during Lizette Delgado Polanco's tenure as CEO. There were nineteen employees terminated, forty-one employees hired, a reorganization, transfers of several employees, promotions and the creation of new departments including the External Affairs Department. Despite these significant changes, no revised or

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updated Organizational Chart was ever issued. Several employees interviewed indicated that they had made a request for an updated chart and the failure to receive one made it difficult to do certain things or to know who should be communicated with in a particular department.

Jane Kelly indicated that she had asked multiple times for an organizational chart in Executive Team meetings but did not receive one. At best, drafts were handed out or discussed at these meetings but had to be returned at the end of the meeting. She further indicated that she ultimately received a draft of an updated chart from Peter Green. When she reviewed the updated version, it reflected that Patricia Cabrera was supervising the Human Resources Department which would have been prohibited by the conflict of interest rules because her daughter-in-law was working in HR at the time.

When individuals who were directly involved in the reorganization process or the creation of the new organizational chart were interviewed, none could provide a clear answer as to why a new chart had yet to be issued. Roy Garcia, the new Chief of Staff who started at the SDA on October 29, 2018, was one of the few individuals who had a copy of the revised working draft. He indicated that issuance of a new chart was on hold as they were still deciding on how to incorporate the newly created External Affairs Department. He also indicated that he has addressed the lack of a chart with employees, however, we saw no evidence of that.

Ultimately, we were provided with no satisfactory explanation as to why a revised Organizational Chart was not issued as a matter of course when changes to the organization were made or new employees were hired. The failure to issue a new organizational chart clearly impacted employee morale and added to the growing suspicions about the changes which were being made and whether they were appropriate or not.



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## V. ETHICAL ISSUES RELATED TO NEW HIRES

### A. In General

#### 1. Nearly Every New Hire Was Directly or Indirectly Connected Personally or Professionally to Ms. Delgado Polanco When Hired

As laid out in the individual assessments and summaries below, with few exceptions among the list of forty-one newly hired employees, all of those employees were somehow connected to Ms. Delgado Polanco, whether via a direct or indirect connection. Ms. Delgado Polanco openly defended her decision to assemble her own team, and several of the new hires we interviewed expressed the sentiment that who you know is what matters when it comes to getting a job. Indeed, referrals are not uncommon and Policy 410 anticipates and provides for them. It is unusual, however, to see *so many positions* filled by individuals connected to the CEO. The employees connected to Ms. Delgado Polanco far exceed the “team” she assembled and extend through all levels – from Chief of Staff to Facilities Assistants.

#### 2. There Is Evidence to Support the Conclusion that Connected New Hires Benefitted from Favorable Treatment Regarding Their Titles and/or Salaries

As set forth below, there are several instances wherein a new SDA employee started at a higher salary, or more prestigious title, than long-time SDA employees. There are clear examples of where this favorable treatment led to resentment among the staff and negatively affected the work environment. For example, a newly-hired employee candidly admitted that she had no background in her Department area, yet was hired with a “senior” title and with the second-highest salary in the Department. Longtime SDA employees were understandably upset at having to train a new employee who was hired in a position superior to them and a higher salary than they were being paid.

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Further, in some cases hiring the new employee for a more senior position actively foreclosed advancement opportunities for longtime employees. A Director expressed frustration that the prospect of a promotion used to incentivize growth was foreclosed when a Deputy was hired for her Department and she had not even been considered for the position which would have been anticipated under Policy 410.

3. There Is Evidence to Support the Conclusion that Certain Positions Were Created to Accommodate Individuals Ms. Delgado Polanco Desired to Hire

Many of the positions for new hires did not previously exist or, while listed in the organizational chart, had not been filled. Much of this can be attributed to the creation and expansion of External Affairs and Communications Departments. With this restructuring, Ms. Delgado Polanco had freedom to tailor positions to the individuals she wanted to hire. In some cases, such as Managing Director of External Affairs Rafael Mata, this is logical, because Mr. Mata was integral in creating and shaping the Departments. In other instances, however, positions were created in Departments without consultation of the existing Director. In the case of the Deputy position referenced above that the Director would have used for a growth opportunity for existing staff, the Director reported that she did not otherwise need the position, and was not consulted before it was created and filled.

4. Most New Hires Are Generally Qualified for Their Positions, but There Is Evidence to Support the Conclusion That Some Were Not Qualified When Hired

Most of the people hired, as set forth below, were either recruited for a specific purpose because of his or her background, or were hired for an entry-level position. There are some, though, who were clearly hired for positions for which they were not qualified. In one instance, an individual resigned after it was learned that he was not qualified for the job. In other instances,

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job descriptions were modified and employees were transferred to accommodate the lack of qualifications or necessary experience.

## **B. Ethics Violations**

Confidential Communications

Confidential Communications

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Confidential Communications

## C. Individual Assessments and Summaries

### 1. Denise Fernandes – August 20, 2018

Denise Fernandes was one of the first new hires during Ms. Delgado Polanco's tenure, receiving an offer on August 15, 2018 and starting work on August 20, 2018. She was hired as a Staff Analyst under SWMBE, and is currently Staff Liaison for Special Projects/Community Partnerships in the External Affairs Division. Before joining the SDA, Ms. Fernandes worked on Latino outreach for the Murphy for Governor Campaign, where her supervisor was Al Alvarez. Ms. Fernandes submitted her resume in a pool on the campaign, and Mr. Alvarez is the one who called her about an available position with the SDA. Ms. Fernandes reported that she did not know anyone else at the SDA. She stated that following her telephone call with Mr. Alvarez, she had to complete an application packet and speak with the Human Resources Department.

Ms. Fernandes described her current role in the Community Partnerships Department as one concerned with workforce and diversity. She described two primary functions: (1) coordination with cities and districts where the SDA has schools to ensure ordinances are in place for local hires; and (2) community outreach to advise residents about the SDA's projects in their communities. Ms. Fernandes reported that in her initial role with the SDA, she did outreach to

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small businesses, including women, veteran, and Latino-owned businesses, about opportunities to work with the SDA.

The Investigators did not hear anything negative regarding Ms. Fernandes's job performance or qualifications during the course of the investigation. Mr. Alvarez, as her former supervisor, would have been familiar with Ms. Fernandes's work prior to her hiring. There has been no suggestion that Ms. Fernandes had a personal, social or familial relationship with any SDA employee, nor has there been a suggestion that she lacked the relevant background, experience, skills, or training for the positions she has held at the SDA. However, it appears Mr. Alvarez hired Ms. Fernandes directly and without following the procedure outlined in Policy 410. It does not appear that her job was posted or open to other candidates. Nor does it appear that Ms. Fernandes was interviewed before she was hired, though it is noted that she was hired for a position in Mr. Alvarez's Division.

In sum, independent of any assessment of the necessity of Ms. Fernandes's current position, which is part of the External Affairs Division discussed *supra*, it is our opinion that Ms. Fernandes was qualified for the positions she was hired for or transferred to and likely would have been selected for hire had the usual hiring process been followed.

## 2. Garrison Keck – August 20, 2018

Garrison Keck worked as a political coordinator at the Northeast Regional Council of Carpenters, where Ms. Delgado Polanco served as the Political Director, prior to becoming employed at the SDA. Mr. Keck graduated high school in 2014. He began his career working for the Middlesex County Democrat organization in early 2017, where he worked for approximately six months before he started at the Carpenters' union. Approximately two months before Mr. Keck

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started at the SDA, the union merged with another organization, and Mr. Keck was not offered continuing employment following that reorganization.

Mr. Keck began his employment at the SDA on August 20, 2018 in the position of Confidential Aide to Ms. Delgado Polanco. Mr. Keck indicated during his interview that he and Ms. Delgado Polanco had a series of “informal conversations” about the position over the summer. He stated that after the third or fourth conversation, Ms. Delgado Polanco told him an offer letter would be sent. Mr. Keck never attended a formal interview, had no pre-employment discussions with anyone from the HR department, and he did not receive the offer letter prior to his start date.

The position of Confidential Aide did not exist at the SDA before Mr. Keck was hired. Mr. Keck told investigators that he and Ms. Delgado Polanco “tossed around” a couple of different titles before they selected Confidential Aide. Mr. Keck described his role as filling the gap between administrative work and the work of the Chief of Staff. When Mr. Keck subsequently assumed another position at the SDA, no replacement was hired to fill the role of Confidential Aide. Mr. Keck’s starting salary was \$75,000. A review of documents shows that this salary was discussed among Ms. Delgado Polanco, Mr. Alvarez, and Ms. Osnayo-Lytle. However, it is not known what the substance of their discussion was, nor what factors were considered in determining what the salary would be.

Sometime around January or February of 2019, Mr. Keck became the Deputy Director of Legislative Affairs. There was only one other person to hold that position prior to Mr. Keck – Laury-Ann Diaz - who was hired on October 1, 2018 and is discussed *infra*. Mr. Keck reported that he was approached by the Chief of Staff and the Deputy Chief of Staff (Roy Garcia and Patricia Arcila Cabrera), and told that he could move to the Deputy Director position. He reported that he had a follow-up conversation with Ms. Delgado Polanco regarding the position, however, he never

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interviewed with the Director of Legislative Affairs, Scarlett Rajski. Ms. Rajski confirmed that she did not interview Mr. Keck, and the decision to transfer him was likely made by Ms. Delgado Polanco, Mr. Garcia, and Ms. Arcila Cabrera.

Mr. Keck did not receive a raise in connection with this change in position. Mr. Keck is currently the lowest-paid Deputy Director. Several witnesses expressed frustration that Mr. Keck, who lacks a post-secondary degree or significant work experience, was given a Deputy Director position. Particular frustration was noted from long-time employees with higher education who were upset that procedures had not been followed, other employees with a longer tenure at the SDA and experience and credentials for the position had not been considered and were not provided with the opportunity to advance.

### 3. George Kloutis – September 4, 2018

George Kloutis is an example of a “regular hire,” who followed the usual hiring process. Mr. Kloutis began his application process prior to Ms. Delgado Polanco’s tenure as CEO. Of note, Mr. Kloutis was referred for a position by another SDA employee, yet still had his application routed through Human Resources, was interviewed, and was hired months later for a position that was requested by a Vice President and posted externally. Mr. Kloutis applied for the position of Senior Program Officer on April 25, 2018 by submitting his resume to [resumes@njsda.gov](mailto:resumes@njsda.gov). Thereafter, Mr. Kloutis forwarded that application to the employee who referred him. That employee then wrote to Mr. Kloutis to confirm that he had applied online, and followed-up to confirm that HR had received the application. Mr. DaSilva recalled having interviewed Mr. Kloutis. That said, a search did not reveal interviews coordinated through Human Resources, as in the case of Mr. Capet and Ms. Cleveland (discussed *infra*).

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## 4. Jonathan Batista – September 5, 2018

Jonathan Batista is the only individual whose hiring was directly contrary to the State's Statutes and Ethics Code, as described *supra*. He is Ms. Delgado Polanco's nephew. Mr. Batista was supposed to begin work on at the SDA on September 5, 2018. Mr. Keck approached Ms. Kelly on that date to prepare the appropriate recusal forms. It was at that time Ms. Kelly learned of the relationship and advised that Mr. Batista could not work for the SDA while his aunt was the CEO.

Further, documents show that Mr. Batista was going to be hired at a higher salary than the other facilities assistants. Ms. Osnayo-Lytle e-mailed Ms. Delgado Polanco on August 29, 2018 with a list of the salaries in the Facilities Department,<sup>3</sup> and requested that Ms. Delgado Polanco confirm Mr. Batista's title and salary. Ms. Delgado Polanco did confirm, and advised that another Facilities Assistant would be elevated to the same level.

Additional documents show that Mr. Batista had not been responsive to the HR Department's attempts to contact him about starting the position. Ms. Osnayo-Lytle asked Ms. Delgado Polanco to have him return their calls in an e-mail dated August 30, 2018. Ms. Osnayo-Lytle had attempted to reach him at the contact information provided on his resume, and informed him the SDA was "eager to start him next Wednesday, September 5, 2018." It was stated to us that Ms. Delgado Polanco believed she could hire Mr. Batista because Ms. Osnayo-Lytle so advised. This document would seem to corroborate the fact that Ms. Osnayo-Lytle supported the decision to hire him, although it is unknown whether Ms. Osnayo-Lytle was aware of the familial

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<sup>3</sup> Facilities Assistant: \$36,400  
Facilities Coordinator: \$48,100  
Facilities Assistant: \$38,700  
Facilities Assistant \$38,700  
Facilities Supervisor: \$64,100



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relationship at that time or whether she had been directed to hire him regardless of the fact that it would not be permitted under the ethics rules.

## 5. Patricia Arcila Cabrera – September 10, 2018

Patricia Arcila Cabrera has been repeatedly described by others as Ms. Delgado Polanco’s “best friend,” Confidential Material The two women, when interviewed, acknowledged, but downplayed, their friendship. A review of publicly available social media posts and photographs corroborates that the women are very close friends.<sup>4</sup> (Despite the efforts to downplay their friendship, it became clear that they were close friends.)

Ms. Arcila Cabrera stated that the two met in 2008, when Ms. Delgado Polanco came to work at SEIU, where Ms. Arcila Cabrera worked as the New Jersey District Leader. She was hired at the SDA initially as the Director of Special Projects.

Ms. Cabrera’s hiring did not follow the accepted process in place at the SDA.

## 6. Anthony Bianchini – September 10, 2018

Anthony Bianchini was hired to be the Communications Director at the SDA. Ms. Delgado Polanco noted during her interview that Mr. Bianchini was her communications director at the Carpenters’ Union, and made clear that she considered Mr. Bianchini to be part of the team she was assembling to garner community support for the SDA. Ms. Delgado Polanco referenced her background in campaigns, and wanted someone experienced in building support and engagement in minority communities such as the ones served by the SDA. The reorganization of the Communications Department and creation of many new related positions is discussed elsewhere

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<sup>4</sup> See, e.g., 8/16/17 Instagram post by @pattydo69 (Patricia Arcila Cabrera), tagging @lizdelgadopolanco (Lizette Delgado Polanco) (“My best friend and I . . .”); 8/19/17 Instagram post by @pattydo69 tagging @lizdelgadopolanco (“ . . . with my sister Lizette . . .”). Other posts appear to depict the two traveling abroad together, socializing generally, and celebrating birthdays, holidays, and other special occasions with each other and each other’s families.

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in this report. Regarding the hiring of Mr. Bianchini himself, Ms. Delgado candidly recruited him for this position. He spoke with Ms. Osnayo-Lytle via telephone, but did not participate in any formal interview process.

Of note, the position of Director of Communications was not vacant at the time Mr. Bianchini was recruited for the role. Kristen MacLean was the SDA's Communications Director before Mr. Bianchini joined the organization. Ms. MacLean was named Director of Policy, a new position, after Mr. Bianchini was hired to assume the position of Director of Communications. Although this is a clear example of an existing employee being transferred to another role to make room for the CEO's selection, no one interviewed expressed a belief that this was improper. In fact, Jane Kelly, who was overseeing Communications before Ms. Delgado Polanco reorganized the Department under the Chief of Staff, expressed no offense at either changing the Director or the Executive to whom the Department reports. Ms. Kelly noted that the new administration is entitled to its own message and its own approach. Even Ms. MacLean, who reported feeling understandably upset at the change, especially considering no one spoke to her prior to making the decision, also reported understanding that the new CEO is entitled to make changes.

While no one raised the issue of salary discrepancy during the interviews, we note that Mr. Bianchini was hired at a considerably higher salary than Ms. MacLean earned when she was Communications Director. Mr. Bianchini was initially sent an offer letter that included a salary of \$125,000 on August 21, 2018, but subsequently received a revised letter on September 5, 2018 that included a salary of \$130,000. Ms. MacLean earned a salary of \$114,300 and received a raise along with the other merit increases to \$117,200.

In sum, the position of Communications Director at the SDA appears to have been viewed as one of those closely-held positions that warrants a deviation from the standard hiring practice

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when the CEO wishes to select her own candidate. Further, Mr. Bianchini was selected based upon his prior work history with Ms. Delgado Polanco (as opposed to pure political favoritism or personal relationship). Mr. Bianchini is qualified for the position.

### 7. Elizabeth LeVaca – September 10, 2018

Elizabeth LeVaca was offered a position as Deputy Director of Communications and Marketing on August 21, 2018 with a starting salary of \$85,000. Both Ms. Delgado Polanco and Ms. Arcila Cabrera are friends of Ms. LeVaca's aunt. Ms. LeVaca did identify Ms. Delgado Polanco on her application form both as a relative or friend who works for the SDA, and how she heard about the position.

Ms. LeVaca had approximately twenty years of experience in corporate communications before she was laid off in 2012. Since then, she had been freelancing. Ms. Delgado Polanco was aware that Ms. LeVaca was looking for a full-time position before she was named as CEO. Ms. Delgado Polanco, Ms. Arcila Cabrera, Ms. LeVaca, and her aunt all met at a restaurant to discuss Ms. LeVaca's skillset and goals. The SDA was not specifically discussed at this meeting. Ms. LeVaca did not believe that Ms. Delgado Polanco knew she would be named CEO at the time of the meeting.

Ms. LeVaca stated that she applied online through the State website, but acknowledged that she did not apply specifically to the SDA or for any specific position. In connection with this application, Ms. LeVaca

Confidential/Personnel Information

Ms. Delgado Polanco subsequently called Ms. LeVaca and stated that the SDA was hiring in the Communications Department. Ms. LeVaca thereafter received a call from the HR Department and was hired. Ms. LeVaca did not interview for the position. Mr. Bianchini, the

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Director of her Department, started working at the SDA the same day as Ms. LeVaca. He had no involvement in her hiring.

The issue of the necessity of multiple Deputy Directors in the Communications Department is discussed elsewhere in this report. Apart from that, Ms. LeVaca was plainly treated more favorably than she would have been if not for Ms. Delgado Polanco and Ms. Arcila Cabrera's personal relationship with her relative. Ms. LeVaca was given an opportunity to fill a position that was not posted, internally or externally, that she did not interview for, that was not discussed with her Director or existing staff, and that is not of the nature that would justify departure from the usual hiring practices. That said, Ms. LeVaca is clearly qualified for the position given her extensive background in corporate communications. Further, those who spoke of her spoke highly of her. Notably, Jane Kelly specifically identified her as someone who is well-liked and has developed at the SDA and done a good job.

## 8. Pamela Luster – September 10, 2018

Ms. Luster was offered a position as the Vice President of Program Operations on August 21, 2018. A new Division was created for Ms. Luster through the reassignment of Departments from other Divisions. The Departments reporting to Ms. Luster include: Grants, Property Management, Records Management, Facilities and Information Systems. Ms. Delgado Polanco expressed to others that she felt it did not make sense for Jane Kelly, the Board Secretary and Vice President who oversees Chief Counsel's Office and Policy, to also oversee IT, Facilities, and Human Resources. That said, no one interviewed reported feeling that the change was necessary, and many expressed frustration with the new Division and with Ms. Luster.

Ms. Luster has known Ms. Delgado Polanco since they met working on the campaign to elect Governor McGreevy. After that, the two continued to see each other at political events and

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became friends. Ms. Luster worked for the Communications Workers of America and, as such, interacted with Ms. Delgado Polanco in the context of labor organization and related events.

Ms. Luster's background does not include experience with either grants or information systems. Further, the Grants Director and the Information Systems Director both reported that Ms. Luster does not engage with them on the substantive work of their respective Departments. Ms. Luster did report that had experience with property management, as she used to handle property management for apartment buildings although candidly we did not view that experience as being particularly relevant to her position or responsibilities at the SDA. Ms. Luster also said that this background provided her with facilities experience. In addition to property management, Ms. Luster also worked early in her career for a development company that converted hotels into timeshares. Ms. Luster stated that she was the assistant to the person who ran that company and that her duties included meeting with developers.

Among the interviewees, Ms. Luster is a highly polarizing figure. Perhaps reflective of her labor background, Ms. Luster has highly contentious relationships with management including her own Directors and other members of the Executive team. On the other hand, Ms. Luster appears to get along quite well with some of the non-managerial SDA employees, and will go out of her way to assist them. This has led to tension, as Ms. Luster's Directors reported instances of feeling disparaged and undermined in front of their staff.

It was our opinion that Ms. Luster was not qualified for the position that she was hired for and other individuals should have been considered for the position prior to a hiring decision being made.

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## 9. Humberto Maravi – September 10, 2018

Humberto Maravi resigned from the SDA approximately one month after he was hired at the SDA as a Field Compliance Inspector. Witnesses cited both Mr. Maravi's Confidential/Personnel Information

Confidential/Personnel Information Because he had not been at the SDA since October 2018, we did not interview Mr. Maravi. Mr. Maravi is an example of an individual who was hired despite a lack of qualifications and without consultation with his supervisors, seemingly because of a political and/or personal connection.

First, Mr. Maravi was not qualified for the position of Field Compliance Inspector, Confidential/Pers Confidential/Personnel Information Multiple witnesses described the technical knowledge required for the position, which is located in the Grants Department. Essentially, these Inspectors visit sites to ensure work completion milestones have been met before additional grant disbursements are made. Approximately one week after Mr. Maravi started working at the SDA, his supervisor learned that he cannot read blueprints and is therefore not equipped to fill the role.

Second, Mr. Maravi was likely appointed because of a political and/or personal connection. While his exact connection was unknown to any of the witnesses who were asked, some witnesses stated that they believed Mr. Maravi to have been connected to Ms. Delgado Polanco and/or Mr. Alvarez. According to his resume, Mr. Maravi worked first as a volunteer and then as a paid staffer on the Phil Murphy for Governor campaign, and worked as the Assistant Passaic County Latino Field Coordinator. Lending further support to believe Mr. Maravi was somehow favored, Mr. Guarriello reported that, prior to his voluntary resignation, they were working on finding him another position in the SDA after learning that he was not qualified for the first position.

Finally, adherence to the hiring policy would have avoided this situation. Mr. Maravi's supervisors were not consulted before he was hired. The Grants Director, Shayne Stuart, had need for a Compliance Inspector and requested that the position be filled. She was advised that an

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appointee was going to fill the position. Ms. Stuart noted that was odd because there are usually not appointees for positions at that level, but she felt she had no reason to bring a complaint at that point. Ms. Stuart did not interview Mr. Maravi. Had the normal hiring practice been followed, Ms. Stuart likely would have readily ascertained his lack of necessary experience and training, and another applicant would have been selected.

### 10. Vicente Gonzalez Roman – September 17, 2018

Vicente (“Alex”) Gonzalez Roman was hired as a Facilities Assistant at \$45,000 per year salary. Before coming to the SDA, Mr. Gonzalez worked at SBM, a janitorial services company, along with several other new hires, including current Human Resources Director Miguelina Diaz. Ms. Arcila Cabrera, whose previous position was with 32BJ, frequently worked with SBM. Mr. Gonzalez was interviewed, but it was noted that he speaks limited English. From what we understand, Mr. Gonzalez contacted Ms. Arcila Cabrera and/or Ms. Delgado Polanco to inquire about a position at the SDA. Ms. Arcila Cabrera noted that Mr. Gonzalez worked as a porter for the union and was doing very well, but denied having recommended him for the position. Records indicate he submitted his resume directly to Ms. Delgado Polanco.

### 11. Jenna Arcila – October 1, 2018

As has been reported, Jenna Arcila is the daughter-in-law of Ms. Arcila Cabrera. Ms. Arcila told us that she first heard of the SDA from Ms. Delgado Polanco. Ms. Arcila stated that she was seeking full-time employment because she had recently moved to North Brunswick, NJ from New York, where she was working with human resources by hosting teambuilding workshops, and was finishing a temporary job at Bloomingdale’s. She said that she spoke to Ms. Delgado Polanco at a family barbeque and asked her to let her know if an opportunity arose. According to Ms. Arcila, Ms. Delgado Polanco contacted her at the end of September because an opportunity arose in the

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Human Resources Department at the SDA. Ms. Arcila stated that Ms. Osnayo-Lytle called her about a week after that, and they had a 40-minute phone conversation that culminated with an offer of employment.

A review of documents shows that it was decided Ms. Arcila was going to be hired before an open position was found, and that she was hired at a significantly higher salary and title than initially considered. Ms. Arcila sent her resume to Ms. Delgado Polanco on August 18, 2018. Ms. Delgado Polanco forwarded this communication to Ms. Osnayo-Lytle and Mr. Alvarez on August 21, 2018. Ms. Osnayo-Lytle sought confirmation from Mr. Alvarez on August 29, 2018 that Ms. Arcila was to be hired as an administrator to be shared among the division and with a salary of \$45,000. The following day, on August 30, 2018, Mr. Alvarez wrote to confirm a conversation between himself, Ms. Osnayo-Lytle, and Ms. Delgado Polanco where it was determined that Ms. Arcila would be hired in the Human Resources Department at a \$50,000 per year salary. Mr. Alvarez wrote that he “[could not] remember the title change you’re [Ms. Osnayo-Lytle] giving her but I know you have it written down somewhere.” On September 10, 2018, Ms. Arcila was sent an offer letter via e-mail for Human Resources Project Coordinator at an annual salary of \$50,000. The offer letter was dated September 7, 2018. Thereafter, Ms. Arcila proceeded with her onboarding process by confirming receipt of an orientation schedule, and scheduling fingerprinting for a background check. For unknown reason, Ms. Arcila was sent a revised offer letter on September 26, 2018 with the same job title, but a \$60,000 per year salary. The letter was also dated September 7, 2018.

Ms. Arcila has limited background in Human Resources, having only hosted teambuilding events, and does not have a college degree. She is perceived as amicable and capable, completing tasks with training and support from Senior HR employees, but Ms. Arcila is essentially entry-



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level and likely would not have received the title and salary she was offered if not for her relationship to Ms. Arcila Cabrera. A longtime HR employee expressed frustration that Ms. Arcila was hired at the same salary she was being paid.

Further, Ms. Arcila has inexplicably received two promotions in the short time she has been at the SDA. First, on November 19, 2018, Ms. Arcila was promoted to HR Generalist. Previous HR employees reported working for many years and participating in trainings and interviews before being promoted to that title. Two former HR Generalists were transferred out of the HR Department and demoted. While both ultimately retained their salaries, they were placed in positions with lower salary grade levels, impacting their earning potential. These employees also expressed dismay at their perceived waste of time training to advance into the position in the first place, and felt bitter that someone with no experience was simply handed what they had worked for.

Then, on January 30, 2019, Ms. Arcila was again promoted to HR Specialist – Benefits. This promotion came with a \$5,000 salary increase. Policies at the SDA generally prohibit promotions to a higher position within one year of a promotion unless there is a recognized need. No recognized need existed at the time of the promotions received by Ms. Arcila.

## 12. Renita Darden – October 1, 2018

Ms. Darden was an existing SDA employee who was terminated along with the others on September 20, 2018. Her managers indicated Confidential/Personnel Information led to her termination. Specifically, Ms. Darden Confidential/Personnel Information

Because Ms. Darden worked the IT Help Desk, other employees were required to provide coverage. After she was terminated, Ms. Darden vociferously petitioned to get her job back. Ms. Luster reviewed her file and believed Confidential/Personnel Information

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**Confidential/Personnel Information** It appears to us that the information was correct, but Ms. Luster and Ms. Delgado Polanco both felt that Ms. Darden could be a successful employee at the SDA **Confidential/Personnel Information** Ms. Darden reports that she now **Confidential/Personnel Information** .

## 13. Laury-Ann Diaz – October 1, 2018

It has been widely reported in the press and among some employees at the SDA that Laury-Ann Diaz is the mother of Ms. Delgado Polanco's grandchild. Ms. Diaz clarified that her son is not Ms. Delgado Polanco's grandchild, but rather her nephew. Ms. Delgado Polanco's brother (who Ms. Diaz noted was adopted by Ms. Delgado Polanco's mother) is the father of Ms. Diaz's child. Ms. Delgado Polanco has made numerous public statements regarding her history of raising four children as a young mother, stating that one of the four children was her brother. Ms. Diaz is no longer in a relationship with her son's father, but reports that both he and Ms. Delgado Polanco are involved in the child's life. Ms. Diaz acknowledged that she attends family functions with them on occasion, but stated that she does not consider Ms. Delgado Polanco to be a relative. She does consider Ms. Delgado Polanco a friend. We do note that Ms. Diaz answered "no" on her application form where asked if she has relatives or friends who work for the SDA, and did not otherwise disclose her relationship with Ms. Delgado Polanco.

Because of the nature of their relationship, Jane Kelly advised that an opinion should be sought from the State Ethics Commission before Ms. Diaz was hired. **Confidential Communication**

Regardless of the exact nature of their relationship and whether it constitutes

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a familial relationship, it is our impression that Ms. Delgado Polanco decided to hire Ms. Diaz for a Deputy-level position at the SDA before determining the specific needs of the organization.

Ms. Delgado Polanco stated during her interview that she had initially recommended Ms. Diaz for the role as Deputy Director of Human Resources. (See 8/14/2018 e-mail from Albert Alvarez to Maribell Osnayo-Lytle re: HR-related Matters (“Enclosed is Laury-Ann’s resume. This is who Lizette wants to bring in as your deputy.”) Ms. Delgado Polanco stated that Ms. Osnayo-Lytle pushed back on that recommendation, and Ms. Delgado Polanco deferred to her.

Prior to joining the SDA, Ms. Diaz was the Director of Operations for the Democratic State Committee. She stated that she handled “a little bit of everything” in that role, including payroll, coordinating campaigns by acting as a liaison between campaign directors and other DSC employees, processing hires for canvasses, and organizing events like the annual state conference, meetings with elected officials, and fundraisers.

### 14. Cory LeDet – October 1, 2018

Cory LeDet was hired as the Deputy Director for the SDA’s Small, Minority, and Women-owned Business Enterprises Department (“SMWBE”). Prior to the reorganization, the SDA did have SMWBE but it was restructured into the External Affairs Division. The SDA did not have a Deputy Director of SMWBE before Mr. LeDet. Mr. LeDet worked for Manasquan Motors for the twenty years prior to joining the SDA as a shop foreman. Mr. LeDet emphasized his experience with community outreach for his church as giving him the relevant experience and connections for this position. As has been widely reported, Mr. LeDet is the husband of Kellie LeDet, Chief of Staff and Assistant Commissioner for Executive Services at the New Jersey Department of Education. Ms. LeDet and Ms. Delgado Polanco have a long history as friends, co-workers, and

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political allies. We do note that news coverage during this investigation revealed that Ms. Delgado Polanco's husband was hired at the Department of Education.

We did not view Mr. LeDet as being qualified for the position he was hired for and had the position been offered to internal candidates there likely would have been individuals who applied that were more qualified than he was.

### 15. William Lee III (a.k.a. Hashim Shomari) – October 1, 2018

William Lee, who goes by Hashim Shomari, is a friend of Ms. Delgado Polanco's and former Acting Director of SEIU. Initially, Mr. Shomari was hired to be the Director of Legislative Affairs. Mr. Alvarez resigned the day after he started, and witnesses described an immediate shift in responsibilities after that. Ms. Rajski filled the Legislative Affairs role, and Mr. Shomari became the Director of Special Projects. He is re-naming his Department Community Partnerships and describes its function as engaging community support for reauthorization. Mr. Shomari candidly did not formally interview or apply, but was contacted by Ms. Delgado Polanco who asked if he would be interested. Mr. Shomari's role in the External Affairs Division was described as "boots on the ground." We do not doubt Mr. Shomari's qualifications. Mr. DaSilva further acknowledged a benefit to the organization that community engagement and Mr. Shomari bring. The issue with the newly-created External Affairs Division lies in the number of positions created and the salary ranges.

It is our recommendation that a detailed analysis of the External Affairs Division as a whole should be conducted among the executive team to determine its structure, focus and whether it requires the number of employees currently employed within it.

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### 16. Kristine Monsen – October 1, 2018

Ms. Monsen was a temporary employee who was offered a full-time position. She was not interviewed for this investigation.

### 17. Votajsia Bethea – October 9, 2018

Ms. Bethea first came to the SDA as a security guard employed by a third-party agency. While working on the executive floor, Ms. Bethea asked Ms. Luster for advice getting a job somewhere like the SDA. Ms. Bethea reported that Ms. Luster took her back to her office and had her print her resume. Ms. Bethea also stated that Ms. Luster told her they had a few assistant jobs open with starting salaries of approximately \$40,000. A review of documents shows that Ms. Bethea e-mailed Ms. Luster her resume on September 21, 2018. Ms. Bethea's e-mail also included a reference to a posting seen on nj.com. Documents also show that Ms. Osnayo-Lytle suggested an open clerical position in Chief Counsel's office for Ms. Bethea on October 1, 2018. Ms. Osnayo-Lytle made the suggestion to Mr. Alvarez, who then asked Ms. Delgado Polanco and Ms. Luster for their input. Ms. Bethea reported that Ms. Osnayo-Lytle approached her approximately one week or a week and a half after she gave her resume to Ms. Luster. Ms. Bethea described the encounter as an interview initially, but then stated that they had already decided to offer her the position. Albert Barnes, Chief Counsel, had been advised, and he came to speak to her after Ms. Osnayo-Lytle. Mr. Barnes and Ms. Kelly both reported that Ms. Bethea was placed in their department without input. However, neither expressed having an issue with her or her work.

### 18. Myra Negron – October 9, 2018

We did not get the opportunity to speak with Ms. Negron, an Executive Assistant who began on October 9, 2018 at a salary of \$60,000. Before coming to the SDA, Ms. Negron worked for the Office of the Governor, beginning as a Switchboard Operator in 2007 and serving as

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Secretary to Senior Policy Advisor and Policy Advisor immediately prior to her transfer to the SDA. We believe the SDA had a need for another assistant at the time Ms. Negron transferred, and presume Ms. Delgado Polanco was familiar with Ms. Negron from her time in the Office. We did not hear any complaints about Ms. Negron and do not doubt her qualifications. Nor do we take issue with the transfer of an administrative assistant from another office. However, Ms. Negron did not serve as Ms. Delgado Polanco's Executive Assistant. Instead, she became the Executive Assistant to the Chief of Staff, Mr. Alvarez and then Mr. Garcia, and to the Chief Financial Officer, Mr. Guarriello. We do not believe Mr. Guarriello was given the opportunity to interview Ms. Negron before she was offered the position.

### 19. Charles Barksdale – October 15, 2018

Charles Barksdale started working at the SDA as a Project Assistant in the Small, Minority, and Women Owned Business Enterprises Department (SMWBE). Thereafter, he was transferred to a new position as Staff Coordinator in the Central Records Management Department. His salary remained at his starting salary of \$45,000. Mr. Barksdale reported learning of an available position at the SDA through a posting with a job description on nj.gov. Documents reviewed did not support that Mr. Barksdale's position was posted, or that he applied via the prescribed channel. Mr. Barksdale denied knowing anybody at the SDA prior to beginning employment, and nobody identified a known or believed connection to Mr. Barksdale, except one witness who stated that Ms. Delgado Polanco hired him. During the course of the investigation, we learned that Mr. Barksdale is the son of the former Secretary of State of New Jersey, for whom Ms. Delgado Polanco served as Assistant Secretary of State. It is unknown whether this information is known to others at the SDA, but we note that Mr. LeDet's wife also worked in the same administration.

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### 20. Stephanie Brown – October 15, 2018

Stephanie Brown transferred from the Governor's Office to become the SDA's Chief Diversity Officer, a new position. She knew Mr. Alvarez from the campaign and from law school. She reached out to him when she learned he was looking to fill the role. Ms. Osnayo-Lytle set up an interview with Ms. Delgado Polanco and Al Alvarez and they explained their vision of what the role would be. The position was a new role that was being created at the SDA.

Ms. Brown was qualified for this position.

### 21. Miguelina Diaz – October 15, 2018

A review of documents shows that Ms. Diaz was offered the position the day after she first spoke to Ms. Osnayo-Lytle on the telephone, on September 12-13, 2018. Further, on September 11, 2018, Ms. Osnayo-Lytle asked Ms. Delgado Polanco for an alternate telephone number for Ms. Diaz, expressing that she wanted to "set up a conference call to go over her resume." Ms. Diaz had a background in HR and HR-related positions. She did not follow the appropriate hiring process and procedure, although she did interview with Ms. Osnayo-Lytle who ultimately became her supervisor. Ms. Diaz appeared to be qualified for the position she was hired into, however, questions existed as to whether she was qualified to assume the Director's position after Ms. Osnayo-Lytle was terminated. No effort was made by the SDA to seek a Director of HR after Ms. Osnayo-Lytle was terminated and Ms. Diaz did not fill the Deputy Director position that she had previously been employed in.

### 22. Joel Guzman – October 15, 2018

Ms. Arcila Cabrera received Mr. Guzman's resume when her daughter sent it to her on September 11, 2018. Ms. Arcila Cabrera sent same to Ms. Delgado Polanco on September 17,

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2018. Mr. Guzman was another individual who did not follow the formal procedure and who benefitted from his relationship with Ms. Cabrera.

## 23. Kenia Nunez Acuna – October 15, 2018

Ms. Nunez is Ms. Delgado Polanco's cousin, as has been reported. Chief Financial Officer Donald Guarriello stated that he was directly asked by Ms. Delgado Polanco to find a position for Ms. Nunez. He did not know that Ms. Nunez was her cousin at that time, but was told that she was someone with a strong financial background, and asked if he could find a place for her. Confid

Confidential Communication

Mr. Guarriello had reviewed Ms. Nunez's resume and, based on her experience, had no problem hiring her for his department. Mr. Guarriello identified it as a win-win situation, as the employee who was then the Deputy Director of Grants had applied for a position in Accounting, where she was moved.

Although Ms. Nunez was qualified for the position Mr. Guarriello had identified for her, a discrepancy ensued over setting her compensation. The employee who was then the Deputy Director was making \$81,000. Ms. Delgado Polanco said the salary was too low, as Ms. Nunez was making \$105,000 for Buena Vista, her prior employer. Ultimately, Ms. Nunez was hired at a salary of \$110,000, significantly higher than her predecessors who held the same position. Further, Mr. Guarriello came to learn through public databases that Ms. Nunez's Buena Vista salary was actually \$83,000, not \$105,000 as claimed by Ms. Delgado Polanco.



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Ms. Nunez's Director, Shayne Stuart, was not given the opportunity to interview Ms. Nunez or provide input before she was hired as her Deputy Director. Ms. Stuart reported that Ms. Nunez failed to keep her informed about certain matters, and would meet with their Vice President, Ms. Luster, without including her. We note that Ms. Stuart's complaint about this was primarily with Ms. Luster for failing to include Ms. Stuart in meetings with her Deputy.

### 24. Tishea Davis – October 22, 2018

Ms. Davis did not follow the usual hiring process, but her connection is unknown. She is an administrative assistant and reported seeing the job posted online. However, no such posting existed, and no record was found of Ms. Davis having submitted through the usual channels. That said, we did not hear anything about Ms. Davis's connections or qualifications during this investigation.

### 25. Frank DiBartolo – October 22, 2018

Mr. DiBartolo was hired as the Deputy Director of Contract Management. Mr. DiBartolo worked for ABM and knew Ms. Delgado Polanco, as well as Ms. Arcila Cabrera as an adversary. He reported sending Ms. Delgado Polanco his resume after he saw she had been appointed and when he was out of work in June. Mr. DiBartolo did not apply for any particular position. A review of documents shows that Mr. DiBartolo sent his resume to Ms. Arcila Cabrera's personal e-mail address on September 11, 2018, and Ms. Arcila Cabrera thereafter forwarded same to Ms. Delgado Polanco on September 17, 2018.

Multiple witnesses cited Mr. DiBartolo as an example of an individual who is not qualified for his position. They reported getting along with him as a co-worker, but recalled instances of being surprised that someone with no knowledge of Contract Management or the jargon used

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would have been appointed to such a senior position. Mr. Guarriello stated that there was probably a place for him in the organization, but not as a Deputy Director.

Another witness recalled a conversation wherein Mr. Alvarez and Ms. Osnayo-Lytle raised the concern about Mr. DiBartolo coming in as Deputy Director to Ms. Delgado Polanco. Reportedly, Mr. Alvarez opined that Mr. DiBartolo should be placed in a more senior analyst role, and then work his way up.

### 26. David Rivas – October 22, 2018

Mr. Rivas was hired as a Facilities Assistant after connecting with Ms. Arcila Cabrera, who is an acquaintance of his mother. He was qualified for this position and all indications are that he has performed well in it.

### 27. Nicole Vinci – October 22, 2018

Nicole Vinci began working for the SDA on October 22, 2018 as the Deputy Director of Risk Management, a newly-created position. The Deputy Director of Risk Management Position was created without the input of the Department's Director and Vice President. The Director of Risk Management, Karon Simmonds, has been the Director for approximately ten years and has never had a Deputy Director. Ms. Simmonds was not consulted about the creation of the position, and was not aware of it prior to Ms. Vinci's hiring. Ms. Simmonds did not participate in the hiring process.

The Risk Management Department is under the Division of the Chief Financial Officer, Vice President Donald Guarriello. Mr. Guarriello also did not ask for the position to be created. Both Ms. Simmonds and Mr. Guarriello reported that, had they been consulted about the creation of the Deputy Director position, they would have opted to fill the role with an existing Department employee. Specifically, Ms. Simmonds and Mr. Guarriello identified an individual they had been

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priming to be Ms. Simmonds's replacement as Director upon her retirement. Ms. Simmonds stated that she did not need a Deputy Director, however, would have preferred to use the position as a promotional growth opportunity and as part of succession planning for her department. She reported that she had lobbied for the creation of this position a few years ago but her request was denied at that time. It is unknown who suggested the creation of this position or who suggested Ms. Vinci for the role.

Ms. Simmonds and Mr. Guarriello both objected when they learned of Ms. Vinci's hiring, and raised the issue with Mr. Alvarez. Both expressed concern that she lacked the relevant experience.

Ms. Vinci was Ms. Arcila Cabrera's daughter's college roommate and best friend. Ms. Arcila Cabrera initially denied this relationship when questioned. While it seems the two do not communicate as much since college, they are clearly still in touch and still close friends.

Ms. Simmonds and Mr. Guarriello were told that Ms. Vinci would be coming and to "make the best of it." Upon hearing this, Ms. Simmonds took the initiative to draft a job description that fit Ms. Vinci's qualifications. Ms. Vinci did not have any insurance background, so Ms. Simmonds bifurcated her Department and focused Ms. Vinci on the Prequalification aspect rather than the Risk Management.

Ms. Vinci was not qualified for the position she was initially hired for but has performed well in the role that was created for her by Ms. Simmonds.

### 28. Riya Arora – October 29, 2018

Riya Arora, as it has been reported, has been close friends with Ms. Delgado Polanco's daughter (Brianna Earle, who is employed by the Office of the Governor) since high school. Ms. Arora was hired and placed in different Departments without input from hiring managers or

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assessment of need. Further, Ms. Arora was given a higher salary and title than most people in her Departments, despite a lack of relevant experience.

Ms. Arora sent her resume to Ms. Delgado Polanco's personal e-mail address on September 30, 2018. Ms. Delgado Polanco forwarded this communication to her SDA account on October 2, 2018. On October 4, 2018, Ms. Arora received an offer letter for a position as Field Compliance Inspector with a salary of \$66,000. Ms. Delgado Polanco signed the letter. Ms. Arora was sent a revised offer letter on October 22, 2018, changing her title to Senior Grant Analyst with a salary of \$66,000. This letter was signed by Patricia Arcila Cabrera.

The Position of Field Compliance Inspector, as discussed in subsection 9 – Humberto Maravi, is one that requires technical knowledge. Although Ms. Arora denied ever having been aware of this position (believing the first offer letter to have been a typo), several witnesses recalled discussions surrounding Ms. Arora being hired for this position. Specifically, Ms. Stuart recalled a conversation with Ms. Delgado Polanco, when she advised Ms. Delgado Polanco that a young person with no experience with construction sites would be ill-suited to the job. Ms. Stuart then told Ms. Delgado Polanco that she did have an open Grant Analyst position. As noted, Ms. Arora was eventually hired as a “Senior” Grant Analyst.

Many objected to Ms. Arora being hired as a “Senior Grant Analyst” rather than a “Grant Analyst.” One witness recalled observing a conversation between Ms. Delgado Polanco and Ms. Osnayo-Lytle, during which Ms. Osnayo-Lytle advised against putting the “senior” in her title.

Similarly, when Ms. Arora subsequently transferred to Risk Management as a Prequalification Analyst, she was made a Senior Prequalification Analyst. Ms. Arora's Director reports that she is doing well in the position, which was vacant and entry-level, so she is qualified in that regard. Ms. Simmonds reported that she was not given an option, but would have

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considered Ms. Arora's resume if the normal process were followed. That said, Ms. Simmonds requested a "Prequalification Analyst," not a "Senior."

### 29. Paul Bilinski – October 29, 2018

Paul Bilinski began working at the SDA on October 29, 2018 as a Facilities Assistant with a salary of \$45,000. Mr. Bilinski reported on his application that he learned of the position through "the company website," and did not report that he had any friends or family members at the SDA. Prior to his interview, we reviewed social media posts which demonstrated that Mr. Bilinski is acquainted with Ms. Arcila Cabrera and her family. During his interview, Mr. Bilinski stated that he learned of the position through his wife, who heard of it through a client at work. Mr. Bilinski denied having known any SDA employees prior to beginning work, and denied that his wife was acquainted with anyone at the SDA other than himself. When confronted with the contradictory social media posts, Mr. Bilinski admitted that his wife has been friends with Jenna Arcila for ten years. In a subsequent interview with Ms. Arcila Cabrera, she reported that Mr. Bilinski need not have lied, and denied that anyone told him to do so.

Mr. Bilinski further reported that he was sent paperwork to complete before being interviewed, that Ms. Osnayo-Lytle interviewed him in person, and that following the interview he received an offer letter. E-mail records show that Ms. Kristin Bilinski sent her resume as well as her husband's resume to Ms. Arcila Cabrera's personal e-mail address on September 17, 2018. On September 25, 2018, Mr. Bilinski received an offer letter and paperwork, including an application packet, which he was directed to complete prior to his start date of October 29, 2018.

The above noted, Mr. Bilinski is qualified for the position he was hired for and all indications are that he has done a good job since he was hired.

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### 30. Marius Capet – October 29, 2018

Marius Capet is a “regular hire” – one whose position was posted before Ms. Delgado Polanco’s tenure and who followed the normal process. We did not speak with Mr. Capet, but a review of documents reveals the contrast in how his hiring was conducted. On August 8, 2018, Mr. Capet applied for a position as Senior Systems Administrator which was posted, with a description, via monster.com. He was then contacted by Danielle Mrosko, the hiring manager. An employee from Human Resources coordinated his interview, e-mailing him a schedule on August 24, 2018. In addition to the schedule, Mr. Capet was sent a packet of paperwork to be completed prior to his interview date. Mr. Capet was interviewed by a panel consisting of Ms. Mrosko, Director of Information Systems Anthony Gilfillan, Director of Risk Management Karon Simmonds, and Programming Manager Richard Nielson on September 4, 2018. Then, on September 26, 2018, Mr. Capet was offered the position.

### 31. Roy Garcia – October 29, 2018

Mr. Garcia was recruited by Ms. Delgado Polanco for the position of Chief of Staff. Initially, they anticipated that he would begin as Mr. Alvarez’s Deputy Chief of Staff and overlap for a period before Mr. Alvarez left. Because Mr. Alvarez resigned unexpectedly on October 2, 2018, Mr. Garcia received a revised offer letter and came in as Chief of Staff, rather than Deputy Chief. Mr. Garcia has since resigned from the SDA. However, we note that Mr. Garcia appeared qualified for the position and, as a confidential position working closely with the CEO, no concerns were expressed to us about Ms. Delgado Polanco’s decision to select her own Chief of Staff without following the usual recruiting procedure.

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### 32. Ellen Leonard – October 29, 2018

Ms. Leonard was hired as a Property Management Analyst. She has known Ms. Delgado Polanco for approximately five years, and asked if she had any openings after her previous company began downsizing. Ms. Leonard also knows Ms. Luster through organization, and expressed Confidential/Personnel Information Ms. Leonard's background is not in Property Management, but she expressed an interest in obtaining her real estate license and attending trainings. Ms. Leonard reports feeling well-suited to her job and desires advancement. She was plainly treated favorably in being offered a vacant position because of her relationships. Although her background is not squarely within her current role, her managers were not interviewed and it is unknown if there are any performance issues. None were reported to us by others.

### 33. Raquel Seguinot – November 1, 2018

Ms. Seguinot was not interviewed due to scheduling conflicts. Ms. Seguinot was offered a position as a Field Compliance Inspector starting November 1, 2018, but on November 26, 2018 was promoted to Deputy Director of Special Projects. Her salary was raised from \$70,000 to \$95,000. Ms. Seguinot reports to Mr. Shomari. Mr. Shomari told us that he advised Ms. Delgado Polanco of his need for a Deputy, and she recruited Ms. Seguinot who is the former Chief of Staff to Senator Rice. Mr. Shomari did not interview Ms. Seguinot and did not know her, but expressed he was happy with the hire. Ms. Seguinot did disclose on her application that she was recruited by Ms. Delgado Polanco, but it is unclear why she was applying for or offered the position of Field Compliance Inspector initially.

### 34. Stella Patricia Cabrera – November 26, 2018

Ms. Cabrera was hired after Ms. Delgado Polanco determined a need for a bilingual press secretary. The position of Press Secretary at the SDA is new. Ms. Cabrera previously worked as

## INVESTIGATION REPORT

the Chief of Staff for the City of Patterson and has 25 years of communications experience. She is undoubtedly qualified. That said, Ms. Cabrera has a personal relationship with Ms. Delgado Polanco, and the need for such a large Communications Department with a dedicated press secretary in addition to two Deputy Directors is not clear.

### 35. Rafael Mata – January 2, 2019

Rafael Mata was recruited by Ms. Delgado Polanco and Mr. Garcia after they saw him speak at an event. They were impressed by him and his background, and invited him to discuss how he would structure a department focused on engaging the community and promoting diversity. Mr. Mata has experience doing with municipalities, and was hired for his expertise, not for any personal connection.

### 36. Colleen Connolly – January 7, 2019

Colleen Connolly is unique in that she was an employee of the SDA for a number of years before leaving for another position. She remained in touch with Andrew Yosha, who designed a managing director position with her in mind based upon her area of expertise. It does appear that Mr. Yosha drafted the job description before the position was created and before Ms. Connolly was hired.

### 37. Ana Alvarez – January 30, 2019

Ana Alvarez worked for her current SDA Director, Miguelina Diaz, at her previous job at SBM. Ms. Alvarez felt that the atmosphere had changed at SBM following Ms. Diaz's departure, so she kept in touch with her former boss as a network connection and asked her to keep her in mind if any positions opened. Ms. Alvarez told us that Ms. Diaz contacted her at the end of



## INVESTIGATION REPORT

December or beginning of January about an HR vacancy created by the SDA's inability to offer a full-time position to a temporary employee who lived out of state.

We note that records reflect that Ms. Alvarez had previously sent Ms. Diaz her resume on November 5, 2018 "for job opportunity we discussed," and that this was sent to Karon Simmonds in connection with the Prequalification Analyst vacancy. No witness raised this.

Before coming to the SDA, Ms. Diaz had five years of experience at SBM, approximately four of which were in Human Resources

### 38. Manuel Castillo – February 19, 2019

Manuel ("Manny") Castillo was introduced to Ms. Delgado Polanco through a professional connection, J. Frank Vespa-Papaleo, Director, New Jersey Division on Civil Rights. After Ms. Delgado Polanco was appointed, Mr. Castillo called to congratulate her, and told her that he would be interested in an administrative position at the SDA if any were available. They discussed Mr. Castillo's background and expertise, but Ms. Delgado Polanco advised that there were no positions like the one he was seeking available at that time. Then, toward the end of January 2019, Mr. Castillo reached out to Ms. Delgado Polanco to tell her about an available position at the DCR. It was at that time Ms. Delgado Polanco discussed the SDA's need for an Equal Employment Officer. Ms. Brown had stepped down from the role by that time. Mr. Castillo and Ms. Delgado Polanco had several discussions about the position and his transition, but Mr. Castillo did not sit down for a formal interview. While Mr. Castillo is undoubtedly qualified for the position and appears well-liked at the SDA, occasional concerns were occasionally expressed about the circumstances of his hiring. Some employees felt apprehensive about approaching Mr. Castillo with any complaints because of the perception that he was close to the CEO and their complaints might not remain confidential. Much of this sentiment was unfortunately amplified by the omnipresence of the

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headlines related to the SDA and the general atmosphere of distrust and negativity. Had Mr. Castillo been hired in this manner at a different time, there perhaps may not have been a concern. That said, adherence to the policy would have helped to mitigate these concern.

## 39. Damaris Rostran – February 19, 2019

Damaris Rostran was hired for the SDA's newly-created External Affairs Department as a Community Liaison Specialist with a starting salary of \$70,000. Due to scheduling conflicts, we were unable to speak with Ms. Rostran. That said, Ms. Rostran is known to be associated with Ms. Delgado Polanco, Ms. Arcila Cabrera, and Mr. Shomari as a former 32BJ employee. Mr. Shomari is her direct supervisor. He knew Ms. Delgado Polanco was considering hiring her and was happy about this as he is familiar with her and her work. Mr. Mata, the Managing Director of External Affairs, reported interviewing Ms. Rostran and "giving the okay." Ms. Rostran is likely qualified and likely to have been selected for the position that she holds had the hiring process been followed. However, the necessity of the creation of the position and the metric by which the salary was determined remain unclear.

VI. Confidential Material & Confidential Personnel Information

Confidential Material & Confidential Personnel Information



















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Confidential Material & Confidential Personnel Information

## **VII. LIZETTE DELGADO POLANCO'S PUBLIC COMMENTS REGARDING TERMINATIONS AND REORGANIZATION AND SUBSEQUENT COMPLAINTS**

During the March 6, 2019 Board Meeting, Ms. Delgado Polanco gave her CEO report to the Board. At the conclusion of her report, she stated that she wanted to conclude her remarks by talking about the stories that were in the news media in February of 2019. She related her background and her mission at the SDA. She concluded by stating that she was confident in the decisions she had made in her first six months as SDA CEO. She then stated that: "Personnel decisions regarding reorganization, terminations, promotions, salary increases were made with the assistance and input of our Chief Operation Officer, Andrew Yosha, Office of the Chief of Staff,

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the Human Resources Department, Counsel's Office and SDA Vice Presidents that are sitting here at this table: Don Guarriello, Manny DaSilva, Jane Kelly, and Tom Schrum. All of them were in place before I came here."

Shortly after the meeting, Al Barnes, Chief Counsel at the SDA, called Stephanie Cohen, Assistant Attorney General at the N.J. Division of Law. Mr. Barnes was calling to raise concerns about what had transpired at the SDA Board meeting earlier that day. His complaint was memorialized in an email from Stephanie Cohen to Michael Walters which ultimately became an additional complaint that we were asked to review and investigate. The details of his complaint were as follows:

Earlier today I received a call from Al Barnes expressing grave concern regarding recent representations by CEO Lizette Delgado-Polanco to the Press and the SDA Board about the 2018 terminations/hiring. Ms. Delgado-Polanco apparently has affirmatively represented that all of the Vice Presidents as well as Chief Counsel's Office were consulted about and "on board" with the terminations and hiring of the new individuals. According to Al, this representation is untrue. Al stated that he was only made aware of the terminations a few days ahead of schedule and immediately contacted outside counsel to get their opinion on whether there would be any legal issues with same. Al stated that ultimately he was fine with the terminations because the people who were let go were generally underperformers and, following discussions with counsel, felt there was justification for their termination and no issue as to demographics, etc. Al insisted, however, that he (and others) were not consulted about and had no input on the hiring or salaries of the new individuals. He believes that the representations made by Ms. Delgado-Polanco are detrimental to his credibility, etc.

During the call, Assistant Attorney General Cohen asked Mr. Barnes whether he was comfortable talking to these investigators about this issue during his upcoming interview (which was scheduled for March 21 and occurred on April 4), or whether he considered his call a confidential whistleblowing complaint. Mr. Barnes did not specifically respond to whether he considered his call a whistleblowing complaint at that time but agreed to meet with these investigators and discuss his complaint and concerns. Mr. Barnes expressed that he felt the matter needed to be addressed with more gravity. He also expressed his belief that the hiring which occurred at the SDA did

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involve nepotism and unqualified political placements and that Ms. Delgado-Polanco effectively took money from the children in depressed areas to provide extravagant raises and salaries to her family, political contacts, etc.

Ms. Delgado Polanco's statement also prompted a written complaint sent after the meeting. The written complaint was made by Donald Guarriello, VP and Chief Financial Officer, Jane Kelly, VP, Corporate Governance & Legal Affairs and Ethics Liaison Officer, Thomas Schrum, VP, Real Estate & Predevelopment and Albert Barnes, Chief Counsel. The complaint was made to Robert Nixon, Chairman of the Board of the SDA, Adam Sternbach, Governor's Authorities Unit, and Heather Taylor, Governor's Chief Ethics Officer. Copied on the complaint was Mark Holmes, Director, State Ethics Commission.

The complaint referenced recent news stories in the press regarding the SDA's recent hiring practices and a statement which had been provided by the SDA. It also stated that at the March 6 SDA Board Meeting, CEO Lizette Delgado Polanco made the assertion again, identifying each of them by name and as having been involved in personnel decisions regarding the reorganization, terminations, promotions and salary increases. The complaint went on to state specifically:

Please be advised that, while we participated in discussions regarding *existing* staff promotions, salary increases and terminations (as we did during past transitions), we had no involvement in the 2018 restructuring/reorganization of the Authority, the selection of new hires, the creation of new positions, or the establishment of new employee salaries or decisions regarding new hire promotions. We were not privy to a reorganization plan (if one exists) and, to date, have not been provided with a current Organizational Chart.

We are taking the extraordinary step of writing to you with the request that you ensure that the above false statements are not repeated and that no further inaccurate information regarding our involvement in this process is disseminated to the general public.

See Exhibit "D".

We met with Mr. Barnes to discuss his complaint. He informed us that he made his complaint to Stephanie Cohen immediately following the Board meeting. He indicated that he

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would not be surprised if he were fired. We expressed our surprise at his statement but he was adamant that he had significant concerns in that regard. No threats had been made and no one had done anything relating to his employment, however, he maintained that he had that concern.

We discussed the Board meeting with Mr. Barnes. He indicated that he was taken aback that Ms. Delgado Polanco said what she did because it was not true. He then told the other people who signed the letter that he was going to call Attorney General's office, which he did, after meeting but before the letter. The letter was drafted primarily by Jane Kelly drafted it but others may have had input into it.

Mr. Barnes indicated that he did not want a public statement out there without some sort of record that it was not accurate or true. He thought this was the right way to let the right people know that he was not involved in the hiring process. He wanted there to be a record for how he reacted privately to the public statements. The did not send their letter to the CEO because he did not believe anything good could come from sending it to her. According to Mr. Barnes, Ms. Delgado Polanco had made a determination to make a public statement that she knew to be untrue and nothing beneficial would come from him challenging her directly on that.

Mr. Barnes indicated that he was not aware the letter that was prepared by Jane Kelly would be sent to the press. While he would have preferred that the matter not be in the press, he felt it was important to let the Board (his boss), the Governor's office, and ethics know "it wasn't me, and what my CEO is saying isn't accurate).

Regarding his call to Stephanie Cohen, he indicated that he was upset and he was concerned about his reputation. We reviewed the email from Stephanie Cohen that

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related to the conversation he had with her. He denied making several statements contained in it which were more of the conclusory statements of opinion. He did confirm he told Ms. Cohen that portion of the email which is set forth above.

Mr. Barnes informed us that on or around

Confidential Material

We explained to him that our investigation did not involve a review of that charge.

## VIII. JANE KELLY'S ALLEGATIONS OF RETALIATION

On April 22, 2019, Jane Kelly wrote another email complaint. This email complaint was sent to George Helmy and Mathew Platkin with a copy to SDA Board Chairman Rob Nixon. (See Complaint attached hereto as Exhibit "G"). The complaint reiterated some of the complaints raised previously by Ms. Kelly and then added some new ones.

Ms. Kelly indicated that she wanted to ensure that Mr. Helmy and Mr. Platkin were aware of the destructive and extremely toxic atmosphere that employees of the SDA had endured since the Fall of 2018. Her outline of what had occurred since that time was detailed. Among her new complaints, she stated the following:

In recent weeks, possibly in response to this pushback and/or fueled by paranoia and mistrust, we have become aware that the new leadership team appears to be engaged in a concerted effort to damage our reputations and professional standing in the eyes of SDA staff and the general public. To this end, among other things, the new leadership is covertly scrutinizing staff emails without following the formal protocols that the Authority has in place to ensure such searches are justified, properly authorized and documented. SDA staff now comes to work every day in an atmosphere that is hostile, chaotic and tense. While our organization, like all organizations, was not perfect, historically there has existed a camaraderie and a positive atmosphere here. Fear is pervasive now at the Authority. Employees fear for their jobs. They fear for their futures. They fear for our projects. They fear for the survival of the SDA. While we continue to do our jobs and are committed to continuing the important work of the Authority, our leadership no longer demonstrates a construction- directed focus on the

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advancement of our projects. The activities of External Affairs and the growth of our social media following seem to have become our highest priorities.

She concluded her complaint by stating: “In short, we are besieged and we are disheartened. Even more, we are angry about what has been done to us and to our Authority. We want to get back to the business of building schools. We want to get back to normal. We very respectfully ask for your help.” The complaint did not suggest what help was needed or what could or should be done.

Lizette Delgado Polanco resigned as CEO of the SDA on April 23, 2019; one day after the April 22 complaint email from Jane Kelly. Regarding her new complaint, Ms. Kelly indicated that she wrote it because people were in tears and she wanted the Governor’s Office to know what was going on at the SDA and that it has been going on since August. After receiving the email complaint, Matt Platkin promptly referred it to the Attorney General’s Office for an investigation. Mr. Platkin then wrote to Ms. Kelly and informed her that he had done so and she thanked him for responding promptly. These investigators were asked to include the issues raised in the April 22 complaint to the complaints being investigated. During her last interview, Ms. Kelly indicated that she told Mr. Platkin that she did not want another investigation – she just wanted someone to do something regarding things at the SDA. When discussing this complaint, Ms. Kelly indicated that there were no new issues raised in her email of April 22 that had not been raised or discussed previously with us.

A new concern that she expressed was that there were people in management trying to figure out who was leaking information and who was talking to the press. Her understanding was that they were pressuring employees in IT including Tony Gilfillan to do things he was not comfortable with. Our investigation did not uncover any such direction or conduct being engaged in. Her understanding was that IT was being asked to look at the emails of certain employees. Ms. Kelly acknowledged that there was nothing unlawful about that as the Authority can look at



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anyone's emails. She noted that there is a process and procedure that would normally be followed and that was not happening.

Ms. Kelly did not believe anyone was looking at her emails until there was an OPRA request for emails between anyone at SDA and Heather Taylor. The Governor's Office indicated that it would handle that request.

Ms. Kelly was asked if there was anything in her new complaint that would suggest folks were retaliating against her in some way. Her response was: "Oh god yeah – I was on Jane Island." That said, she indicated that she did not outline her complaints in her email because this complaint was not about her but about helping to protect the staff. Ms. Kelly was quick to add that she did not believe that her April 22 complaint prompted Ms. Delgado Polanco's resignation; she believes it was already in the works.

Ms. Kelly described the atmosphere as disheartening. She said that many people were questioning their future and wondering whether the SDA would survive and whether they would still have a job. Ms. Kelly acknowledged that things were much better at the SDA since Ms. Delgado Polanco resigned. She noted that the "us vs them" feeling as subsided somewhat. She said that the new employees hired by Ms. Delgado Polanco do not have the same attitudes as they did while she was the CEO. She believes that Manny DaSilva, the new CEO, has played a large part in the atmosphere improving. She noted that Mr. DaSilva has been at the authority for a long time and many of the employees respect him. There is a great trust for him as he is viewed as very ethical.

Ms. Kelly is concerned that some of the relationships among employees is irreparable because too much harm was done by the Executive Team. She noted that some of the new hires

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are really nice, really good people but there is still some uncertainty and discomfort that is noticeable.

Ultimately, it was clear that the April 22 complaint did not raise new claims other than as outlined. This complaint was because she felt that not enough was being done to address the issues that existed. She was aware that there were multiple investigations into multiple complaints and issues but wanted to see closure relating to them. The resignation of Ms. Delgado Polanco appeared to be very impactful to her and the atmosphere she was working in.

Finally, it should be noted that Jane Kelly ultimately gave an interview to Dustin Racioppi, a reporter providing extensive coverage of the events at the SDA. The interview and video were published on June 14, 2019. During that interview, she indicated that she called the Governor's Office in November to express concerns over the hiring practices at the SDA. She said that, at the time, she told the Governor's top ethics official that the agency's new CEO, Lizette Delgado Polanco, had hired many employees with personal and political connections outside of the normal process and against her advice. She also indicated that she was told to file a written complaint which would be consistent with the process for handling personnel matters. No new claims were made during this interview which had not been previously raised in the prior complaints which were reviewed as part of this investigation.

## **IX. CONCLUSIONS AND IMPACT ON WORKING ENVIRONMENT AT THE SDA**

Our investigation involved numerous issues relating to SDA policies, procedures and the hiring practices at the SDA after Ms. Delgado Polanco became the CEO in August of 2018. Unfortunately, our review uncovered numerous examples of a failure to follow proper procedures, failure to involve the appropriate employees in the analysis, review and decision-making process for significant issues relating to the Authority, a lack of transparency, an unnecessary and

## INVESTIGATION REPORT

ultimately detrimental focus on the reauthorization and hiring practices and the hiring of new employees that were not qualified for their positions, did not support the mission of the organization and did not result in better management, performance or production or improved results in areas that were of significance to the business of the organization and were viewed as patronage or patronage-type hires that negatively impacted the Authority and the working environment.

Under the new leadership which took charge when Lizette Delgado Polanco became CEO, significant changes were made in a very short period of time. There was what can be described as an unhealthy focus on reauthorization which ultimately drove many of the structural issues relating to the reorganization and acted as justification for many of the questionable decisions which were made. As reflected in our report, the reorganization discussions and decisions were limited to a small group of individuals who were part of Ms. Delgado Polanco's inner circle and who, for the most part, did not have the institutional knowledge or experience to appreciate what the impact would be or could be on the organization as a whole.

Information regarding the reorganization was so limited that, despite significant changes to the organizational structure, the creation of new departments, the hiring and firing of multiple employees, a revised organizational chart was never issued during Ms. Delgado Polanco's term as CEO. This lack of transparency regarding the reorganization added to what became an extremely difficult and negative work environment which some employees described as toxic, destructive or hostile. The reorganization and the slew of new hires into newly created positions also created a feeling of resentment and uncertainty among employees who had been employed prior to the new administration. In some instances, it put newly hired employees in positions where it made it difficult to succeed or unfairly being blamed for being recruited and hired. Ultimately, all of this

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led to what many of the people we interviewed described as an “Us vs Them” or “Old Guard vs New Guard” environment. These feelings permeated virtually every interview we had which led to a conclusion that actions must be taken moving forward to address them.

Regarding the reorganization, Ms. Delgado Polanco acknowledged that her focus was on the reauthorization and it was the primary reason she created the External Affairs Department. She said she had her own ideas regarding that department, and she was directly involved in staffing it. She indicated that she was involved in the hiring because she knew what she was looking for and there was no time for on the job training. She had this focus, however, she did not have experience in overhauling an organization in the manner that she did and she did not retain or involve any individuals or entities who had such experience. Our review did not reveal that the creation of the External Affairs department resulted in any significant positive impact on the reauthorization process or results of it. It, and other new hires, resulted in a substantial increase in the salary budget at the Authority.

During the time period which the complaints cover, Ms. Delgado Polanco was the highest-ranking employee and the person who was in charge and made most, but not all, of the decisions which ultimately led to the complaints which we investigated. For that reason, she must shoulder a majority of the blame for what ultimately occurred. However, this does not mean that all other employees were without fault. It was also clear that a number of employees who were employed at the SDA did not act immediately to embrace the new regime or the new employees who were hired. Understandably, there were multiple reasons that went into this and each person may have had a reason to act in the manner that he or she did, however, this contributed greatly to the atmosphere which many of the employees complained about.

## INVESTIGATION REPORT

Our investigation also led us to conclude that the SDA is filled with a tremendous amount of dedicated, talented hard-working employees who are committed to the ultimate mission of the organization. This includes those employees who were employed at the SDA prior to Lizette Delgado Polanco becoming CEO and a good number of those employees who were hired after she started. The organization and its mission appear to lend themselves to creating a sense of pride in the work that is being done at the SDA and a desire to stand behind it, be part of it and help it to succeed.

Unfortunately, the work environment has been negatively impacted by how personnel policies and decisions were handled since August of 2018. The atmosphere described by witnesses we interviewed of “Us vs Them” and concerns and fears about their jobs and the future of the organization are real. The atmosphere was permitted to fester and continue despite obvious signs that existed early on in the tenure of Ms. Delgado Polanco. There did not appear to be any concern about how new hires would be perceived or accepted or how their salaries would impact the budget. While there was a clear influx of minority employees compared to the makeup of the workforce that existed prior the new administration, part of the reason for that can be attributed to the fact that a good portion of the new hires were individuals that had some prior connection to Ms. Delgado Polanco and Patricia Cabrera.

In our opinion, immediate action should be taken by the SDA to foster an improved work environment and working relationships of its employees. Based upon our interview of the Acting CEO, Manny DaSilva, and comments shared by many witnesses that they trust him and have faith in his abilities, we are confident that with the appropriate attention and focus, he and others at the SDA will be successful in addressing these concerns and issues and correcting them. In addition, significant changes must be made to the hiring practices to insure that all current and prospective

## **INVESTIGATION REPORT**

employees are afforded the appropriate opportunity to compete for available positions on an even playing field without consideration of who you know being the only or primary factor in the decision-making process.

Thank you for the opportunity to conduct this investigation and we hope that the factual information provided and the conclusions presented assist in addressing the issues and concerns raised in the complaints which were investigated.

Domenick Carmagnola, Esq.  
Meagan Mariano, Esq.  
Carmagnola & Ritardi, LLC  
60 Washington Street  
Morristown, N.J.07960

July 17, 2019

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## EXHIBIT “A”

The following individuals were interviewed in connection with this investigation:

NO.	DATE	INTERVIEWEE(S)
1	February 25, 2019	Andrew Yosha
2	February 26, 2019	Lizette Delgado Polanco
3	February 28, 2019	Miguelina Diaz
4		Jane Kelly
5	March 7, 2019	Don Guarriello
6	March 11, 2019	Jane Kelly (Day 2)
7	March 12, 2019	Manny DaSilva
8		Tom Schrum
9	March 19, 2019	Roy Garcia
10	March 25, 2019	Shilpi Kumar
11		Stephanie Brown
12	March 26, 2019	Karen Clark
13		Karon Simmonds
14	March 28, 2019	Patricia Arcila Cabrera
15		Pam Luster
16	April 4, 2019	Al Barnes
17	April 8, 2019	Garrison Keck
18		Rafael Mata
19	April 10, 2019	Shayne Stuart
20		Tony Gilfillan
21	April 16, 2019	Tony Bianchini
22		Louise Sanna
23	April 18, 2019	Manny Castillo
24	April 23, 2019	Nicole Vinci
25		Riya Arora
26		Frank DiBartolo
27		Jenna Arcila
28		Elizabeth LeVaca
29		Joel Guzman
30	April 24, 2019	Cory LeDet
31		Hashim Shomari (William Lee)
32		Denise Fernandes
33		Vicente Gonzalez Roman (Alex)
34		Paul Bilinski
35		Kenny Richardson
36		Laury-Ann Diaz
37		David Rivas

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NO.	DATE	INTERVIEWEE(S)
38	April 30, 2019	Ellen Leonard
39		Scarlett Rajski
40		Renita Darden
41		Charles Barksdale
42		Stella P. Cabrera
43	May 2, 2019	Tishea Davis
44		Stephanie Green
45		Ana Alvarez
46		Votajsia Bethea
47		Kristen MacLean
48	May 13, 2019	Kristen MacLean
49	May 14, 2019	Marcia Longmore
50		Stephanie Green (follow-up)
51	June 4, 2019	Jane Kelly 3 <sup>rd</sup> Interview
52	June 13, 2019	Tony Gilfillan 2 <sup>nd</sup> Interview
53		Roy Garcia 2 <sup>nd</sup> Interview
54		Patricia Arcila Cabrera 2 <sup>nd</sup> Interview



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## EXHIBIT “B”

The following documents, types of documents or categories of documents were reviewed in connection with this investigation:

- Complaints Investigated:
  - December 5, 2018 “Anonymous Complaint” Submitted to the Office of the Governor’s Chief Ethics Officer (“Exhibit C”)
  - Confidential Material (“Exhibit D”)
    - Confidential Material ;
  - March 6, 2019 Letter from Members of the Executive Team and Chief Counsel to the Chairman of the Board and the Office of the Governor (“Exhibit E”)
  - Memorandum of Chief Counsel Albert Barnes’s March 6, 2019 Telephone Call to the Office of the Attorney General (“Exhibit F”)
  - Jane Kelly’s April 22, 2019 E-Mail to the Office of the Governor (“Exhibit G”)
- NJSDA Personnel Documents:
  - Personnel files of terminated employees, including some termination letters.
  - Personnel files of new hires, including applications, offer letters, and pre-hire ethics questionnaires
  - Resumes of new hires
- NJSDA Handbook, Policies, and By-Laws:
  - NJSDA Policies, Programs, and Benefits Manual, March 1, 2017, including:
    - 100 Nature of Employment
    - 105 Equal Employment Opportunity
    - 115 Discrimination in the Workplace
    - 205 Personnel Record Keeping
    - 210 Employment Reference Checks
    - 405 Employment of Relatives
    - 410 Internal and External Hiring
    - 730 Unlawful Harassment
  - By-Laws of the NJSDA, Adopted August 15, 2007
  - Human Resources Policies, including:
    - 1101: Policy No. HR-01: Diversity Policy Effective April 22, 2014
    - 1102: New Jersey State Policy Prohibiting Discrimination in the Workplace
    - 1102-2: State Model Procedures for Internal Complaints Alleging Discrimination in the Workplace, Adapted for the NJSDA June 30, 2014
    - 1103: Policy No. HR-03: Reasonable Accommodation Policy
- Ethics Laws, Regulations, and Guidance:
  - New Jersey Conflicts of Interest Law, N.J.S.A. 52:13D-12 *et seq.*
  - New Jersey Uniform Ethics Code
  - NJSDA Supplemental Ethics Code
  - March 5, 2019 Memorandum from Jane Kelly to Domenick Carmagnola

# INVESTIGATION REPORT

- Internal Memoranda, including:
  - November 2, 2018 memorandum from Stephanie A. Brown and Miguelina Diaz to Lizette Delgado Polanco regarding termination of Maribell Osnayo-Lytle
  - February 11, 2019 memorandum from Rafael Mata, Managing Director of External Affairs, to Roy Garcia, Chief of Staff, regarding the request to create the Department of External Affairs within the NJSDA
  - Agendas of Executive Team Meetings in August through October 2018;
  - 2018-19 Strategic Communications Assessment and Communications Plan of October 19, 2018
  - Multiple iterations of “Dead Wood List,” including personnel changes, handwritten notes regarding same, and prepared list of reasons for termination of certain employees.
- Documents Compiled by Chief Financial Officer Donald Guarriello, including:
  - Lists of New Hires subsequent to August 1, 2018, including:
    - Department, Job Title, Start Date, and Salary
    - Date of Background Check and Start Date
    - Assigned Department, Job Title, and Direct Supervisor/Executive Report
  - List of New SDA Job Titles, salary, and information regarding same (i.e. lateral transfer, new hire, or promotion)
  - Three Lists of Increases (Promotional, Merit, and Equity) provided to NJSDA employees subsequent to August 1, 2018, including old salary, new salary, and percent increase
  - List of Demotions/Salary Reductions subsequent to August 1, 2018
  - List of Terminations, including reason (involuntary, retirement, or resignation), Job Title, Department, and Salary, subsequent to August 1, 2018
  - Analysis of Increases/Decreases subsequent to August 1, 2018 by sex
  - Cost Impact on Employee Salaries & Health Insurance of Reorganization
- Documents gathered by Human Resources Director Miguelina Diaz pertaining to employee complaint against Maribell Osnayo-Lytle, including:
  - Written complaints and documents provided by complaining party
  - Documents found in Ms. Osnayo-Lytle’s office provided by Ms. Diaz
- Documents provided by Chief Operating Officer Andrew Yosha, including:
  - Emails pertaining to submission of data under Executive Order 8
  - Handwritten notes of October meeting with Ms. Osnayo-Lytle
  - Handwritten notes from Ms. Osnayo-Lytle’s termination meeting
- NJSDA Organization Charts, including those as of:
  - December 1, 2017
  - July 1, 2018
  - August 10, 2018
  - August 20, 2018
  - Draft 2019

# INVESTIGATION REPORT

- Job Descriptions and Postings
  - Dates of internal and external postings and removals of job vacancies;
  - Descriptions of jobs for new hires
- OPRA documents
  - OPRA requests, responses, and responsive documents gathered in 2019 through April 4, 2019
- Recusal Letters:
  - Lizette Delgado Polanco Recusal Letters, including those related to:
    - Kenia Nunez
    - Laury-Ann Diaz
  - Patricia Arcila Cabrera and Jenna Arcila recusal letters
- E-mail Communications:
  - Communications from Jane Kelly, Ethics Liaison, regarding recusals and conflicts of interest
  - E-mails exchanged between Human Resources Director Maribell Osnayo-Lytle and Chief of Staff Albert Alvarez
  - E-mails exchanged between Human Resources Director Maribell Osnayo-Lytle and Lizette Delgado Polanco
  - E-mails exchanged between new hires' personal e-mail addresses and NJSDA domains
  - E-mails sent to [resumes@njsda.gov](mailto:resumes@njsda.gov) including new hires' personal e-mail addresses
- Public Meetings:
  - Audio recording of March 6, 2019 NJSDA Board Meeting
  - Transcript and video recordings of Lizette Delgado Polanco January 8, 2019 testimony before New Jersey Legislative Select Oversight Committee
  - Video recording of Lizette Delgado Polanco April 10, 2019 testimony before Assembly Budget Committee
- News Articles, Opinions, and Editorials related to the NJSDA and Ms. Delgado Polanco
  - Including statements given by Ms. Delgado Polanco to reporters in response to questions posed.
- Other Public Documents:
  - Kelly v. Shah Complaint MER-L-1024-19 filed May 23, 2019
  - Bonar et al. v. NJSDA, Complaint, 3:19-cv-14621, filed July 2, 2019
  - Social Media (primarily Facebook and Instagram) profiles, posts, photographs, comments, and reactions, by and of Lizette Delgado Polanco, Patricia Arcila Cabrera, and other new hires
  - NJSDA Response to OLS Questions regarding FY 2019-2020 budget

# INVESTIGATION REPORT

## EXHIBIT “C”

### PERSONAL AND CONFIDENTIAL

Heather,

This is to follow up on our recent conversations regarding my concerns about irregular/potentially illegal hiring practices by newly installed leadership at the SDA occurring since early August 2018. You have asked that I transmit these concerns to you in writing so that the Administration can investigate them. As you know, I took the extraordinary and difficult step of contacting you as I am unable to go through my normal chain of command as it is comprised of the individuals engaged in the behavior at issue.

SDA has long employed a rigorous hiring process that included formal job descriptions; a salary structure based on job evaluations; job postings (both internal and external); HR review of applications; HR shortlisting of applicants; interviews by a 3-member selection committee; successful candidate interviews by area VP and CEO; and background checks prior to hiring. However, since August 2018, close to 35 new employees have joined the Authority without going through any formal hiring process. It is reported and appears credible that a majority of the new hires are family members, friends and associates of the new CEO and other newly hired members of the SDA executive team. I have also received credible information that, in some cases, individuals were placed in positions for which they lack the relevant qualifications and/or experience, and that salaries have been arbitrarily established. I believe that these additional hires increased the Authority's employee salary budget by over \$2 million.

As we discussed, as the SDA's Ethics Liaison Officer, I believe I was strategically shielded from this information until recently. In those instances where I was made aware that familial and other relationships existed, I endeavored to ensure that the proper recusals and other protections were put in place.

As I previously expressed to you, I remain very concerned that my outreach to your office (along with my exercise of my ELO responsibilities) will result in retaliatory action against me by Authority leadership. However, it is my sincere hope that the Administration will investigate these serious concerns. It is also my hope that, to the greatest extent possible, my identity will be kept confidential.

Please be assured that I take very seriously my responsibilities as the SDA's Governance Vice President and Ethics Liaison Officer and will continue to meet my legal obligations in both roles in all respects. The SDA's long term employees who work hard every day to provide quality school facilities for the neediest among us and the state's taxpayers deserve the Administration's attention to this matter.

Thank you for your assistance.

# INVESTIGATION REPORT

## EXHIBIT “D”

Confidential Material

Confidential Material

Confidential Material



Confidential Material

Confidential Material

# INVESTIGATION REPORT

## EXHIBIT “E”

To: Robert A. Nixon, Chairman of the Board  
Adam Sternbach, Governor's Authorities Unit  
Heather Taylor, Governor's Chief Ethics Officer

CC: Mark Holmes, Director, State Ethics Commission

From: Donald Guarriello, VP and Chief Financial Officer  
Jane F. Kelly, VP, Corporate Governance & Legal Affairs and Ethics Liaison Officer  
Thomas B. Schrum, VP, Real Estate & Predevelopment  
Albert D. Barnes, Chief Counsel

As you know, there have been numerous stories in the press in recent days regarding the SDA's recent hiring practices. An article that appeared in North Jersey.com, included a statement provided by SDA indicating that "all personnel decisions regarding new hires and terminations were made with the assistance and input of the chief operating officer, office of the chief of staff, the human resources department, counsel's office and SDA vice presidents".

At a meeting of the SDA Board of Directors held at the offices of the Authority today, CEO Lizette Delgado Polanco made this assertion again, identifying us by name, as having been involved in personnel decisions regarding the reorganization, terminations, promotions and salary increases.

Please be advised that, while we participated in discussions regarding *existing* staff promotions, salary increases and terminations (as we did during past transitions), we had no involvement in the 2018 restructuring/reorganization of the Authority, the selection of new hires, the creation of new positions, or the establishment of new employee salaries or decisions regarding new hire promotions. We were not privy to a reorganization plan (if one exists) and, to date, have not been provided with a current Organizational Chart.

We are taking the extraordinary step of writing to you with the request that you ensure that the above false statements are not repeated and that no further inaccurate information regarding our involvement in this process is disseminated to the general public.

# INVESTIGATION REPORT

## EXHIBIT “F”

From: Stephanie J. Cohen, AAG

Date: March 6, 2019

Earlier today I received a call from Al Barnes expressing grave concern regarding recent representations by CEO Lizette Delgado-Polanco to the Press and the SDA Board about the 2018 terminations/hiring. Ms. Delgado-Polanco apparently has affirmatively represented that all of the Vice Presidents as well as Chief Counsel’s Office were consulted about and “on board” with the terminations and hiring of the new individuals. According to Al, this representation is untrue. Al stated that he was only made aware of the terminations a few days ahead of schedule and immediately contacted outside counsel to get their opinion on whether there would be any legal issues with same. Al stated that ultimately he was fine with the terminations because the people who were let go were generally underperformers and, following discussions with counsel, felt there was justification for their termination and no issue as to demographics, etc. Al insisted, however, that he (and others) were not consulted about and had no input on the hiring or salaries of the new individuals. He believes that the representations made by Ms. Delgado-Polanco are detrimental to his credibility, etc.

I asked Al whether he was comfortable talking to Domenick Carmagnola about this issue during his upcoming interview (scheduled for March 21), or whether he considered this call a confidential whistleblowing complaint ala the initial complaint received regarding the SDA. Although Al did not specifically respond to whether he considered this a whistleblowing complaint -- and I didn’t follow up -- he stated that he would relay the facts to Domenick during his interview when asked about the termination and hiring issues. Al stressed that was contacting the AG’s office with a sense of urgency to emphatically (his word) impress upon us that he does not believe that the Administration is treating this matter with the gravity it requires and that it will not end well for the Administration. He believes that the hiring did involve nepotism and unqualified political placements and that Ms. Delgado-Polanco effectively took \$ from the children in depressed areas to provide extravagant raises and salaries to her family, political contacts, etc. He stated that he wants the Administration to succeed but that this will not turn out well for it if they don’t get more involved immediately. He felt that everything was taking “too long.”

When asked about the other Vice Presidents he had referenced as not being consulted about the terminations/hiring, Al stated that per his discussions with Jane Kelly, he did not believe she was contacted. In addition, he did not believe that the CFO and a few others Donnell, Goriello had any involvement.

# INVESTIGATION REPORT

## EXHIBIT G

**From:** Jane Kelly [REDACTED] >  
**Sent:** Tuesday, April 23, 2019 3:23:29 PM  
**To:** Platkin, Matthew [REDACTED] >; Helmy, George <[REDACTED]>  
**Cc:** [nixon](#) [REDACTED] >  
**Subject:** RE: [EXTERNAL]Re: SDA

Mr. Platkin,

Thank you very much for your prompt response. It is much appreciated.

Jane Kelly

**From:** Platkin, Matthew <[REDACTED]>  
**Sent:** Tuesday, April 23, 2019 11:00 AM  
**To:** Jane Kelly <[REDACTED]>; Helmy, George [REDACTED] >  
**Cc:** [nixon](#) [REDACTED]  
**Subject:** [EXTERNAL]Re: SDA

Ms. Kelly,

As set forth in my prior email, I forwarded your email to Michael Walters at the AG's Office. Michael indicated that the AG's Office will retain outside counsel to handle the complaint.

Thank you,

Matt Platkin

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**From:** Platkin, Matthew  
**Sent:** Monday, April 22, 2019 5:30:44 PM  
**To:** Jane Kelly; Helmy, George  
**Cc:** [nixon](#) [REDACTED]  
**Subject:** Re: SDA

# INVESTIGATION REPORT

Ms. Kelly,

Thank you for your note. We take these issues very seriously. The complaints contained below have been sent to the Office of the Attorney General for review.

Thank you.

Matt Platkin

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**From:** Jane Kelly <[REDACTED]>

**Sent:** Monday, April 22, 2019 12:38 PM

**To:** Helmy, George; Platkin, Matthew

**Cc:** [nixon](#) [REDACTED]

**Subject:** [EXTERNAL] SDA

Mr. Helmy and Mr. Platkin,

I write this in an effort to ensure that you are aware of the destructive and extremely toxic atmosphere that employees of the New Jersey Schools Development Authority (SDA) have endured since Fall 2018.

By way of background, I joined SDA as a Vice President in 2008 and, in my time here, have served under three administrations. My responsibilities have included a variety of functions but the SDA's legal staff and ethics responsibilities have always been within my organization. The Human Resources, Communications and Information Systems units were also under my umbrella from 2010 until August 2018.

In November 2018, I contacted the Governor's Office to report that hiring at the Authority under the new CEO was proceeding in a manner that violated SDA's hiring policies. I subsequently filed a formal complaint to this effect with your office. As the Authority's Ethics Liaison Officer (ELO),

# INVESTIGATION REPORT

I also believed (and still believe) that the state's Conflicts of Interest law and Uniform Ethics Code were being violated as well.

Unfortunately, it appears that the Authority's new leadership views the ethics function with disdain. This is exemplified by the marginalization of the Ethics office. Staff members were instructed not to speak with the ELO and, in one case, a Human Resources staff member was scolded for doing so and then summarily transferred to a different division.

Since Fall 2018, our work environment at the SDA has become intolerable due to the actions of the new CEO and her handpicked staff. From the outset, a clear division was created between the CEO's new hires and long-term staff. The former were afforded financial benefits and privileges not available to long-term staff. The latter were required to give up their offices and move to new floors so that the new hires could be located together on the executive floor. In some cases, employees were transferred to new divisions so that the new hires could assume their positions. It is worth noting that, of the 36 new hires brought in by the new CEO, only 5 work in Authority divisions other than those reporting to the CEO, the new Chief of Staff and the new Vice President Administrative Operations. Further, many of these new hires have job titles that previously didn't exist at the Authority.

This atmosphere has affected staff from the lowest to the highest levels. Staff reports profanity laced tirades and rude and unprofessional treatment by members of the new leadership team. In addition, with the public release of salary and other information regarding the new hires, long-term staff became aware that individuals hold titles for which they lack the experience or credentials and/or are earning significantly more than they are. Case in point-- staff members who worked for 14+ years to earn a Deputy Director title have watched in disbelief as unqualified new hires with no relevant background, training or experience were given that title upon arrival at significantly higher salaries.

# **INVESTIGATION REPORT**

Staff is keenly aware that the new leadership has repeatedly ignored the Authority's hiring and promotional policies. With no job postings since August 2018, SDA employees despair that there will no longer be opportunities to compete for new positions and higher salaries. This is frustrating and demoralizing to good people who have spent their careers at SDA. Furthermore, employees have nowhere to go to vent their concerns. The newly installed Human Resources Director is a close friend of the new leadership team and there is no confidence that anything one might say in that forum would be kept confidential and a real concern that speaking critically would result in retaliation.

SDA's new leadership does not trust the long-term members of the SDA executive team and that suspicion is palpable. The new CEO made no effort to develop a blended management group. To the contrary, there was a conscious effort to exclude most members of the existing management team from any meaningful involvement with the Authority's 2018 hiring process.

Thus, it came as a surprise when, at the March meeting of the SDA Board, in an effort to deflect criticism of her hiring practices, the CEO identified some of us by name while falsely describing our involvement in the hiring process. That statement was publicly refuted by four members of the executive team, including me. As the Authority's ELO and as a licensed attorney, I could not let this false statement implicating me in unethical and potentially illegal activities go unchallenged.

In recent weeks, possibly in response to this pushback and/or fueled by paranoia and mistrust, we have become aware that the new leadership team appears to be engaged in a concerted effort to damage our reputations and professional standing in the eyes of SDA staff and the general public. To this end, among other things, the new leadership is covertly scrutinizing staff emails without following the formal protocols that the Authority has in place to ensure such searches are justified, properly authorized and documented.



# INVESTIGATION REPORT

SDA staff now comes to work every day in an atmosphere that is hostile, chaotic and tense. While our organization, like all organizations, was not perfect, historically there has existed a camaraderie and a positive atmosphere here. Fear is pervasive now at the Authority. Employees fear for their jobs. They fear for their futures. They fear for our projects. They fear for the survival of the SDA.

While we continue to do our jobs and are committed to continuing the important work of the Authority, our leadership no longer demonstrates a construction-directed focus on the advancement of our projects. The activities of External Affairs and the growth of our social media following seem to have become our highest priorities.

The ongoing destruction of our Authority is monumentally tragic to those of us committed to its core mission. In July 2018, SDA had a solid record of delivering schools on time and on budget. We had finally put to rest the poor legacy of our predecessor SCC. In so doing, we had earned the respect of groups that were previously our harshest critics. Most importantly, we were well-positioned to make a successful push for new SDA funding. Today we find ourselves in danger of elimination.

In short, we are besieged and we are disheartened. Even more, we are angry about what has been done to us and to our Authority. We want to get back to the business of building schools. We want to get back to normal. We very respectfully ask for your help.

Jane F. Kelly, Esq.

Vice President

Corporate Governance & Legal Affairs

NJ Schools Development Authority

609- [REDACTED]

# INVESTIGATION REPORT

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